

SEPTEMBER 1951

CREDIT

and

FINANCIAL MANAGEMENT

UNIVERSITY
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creditors' committee

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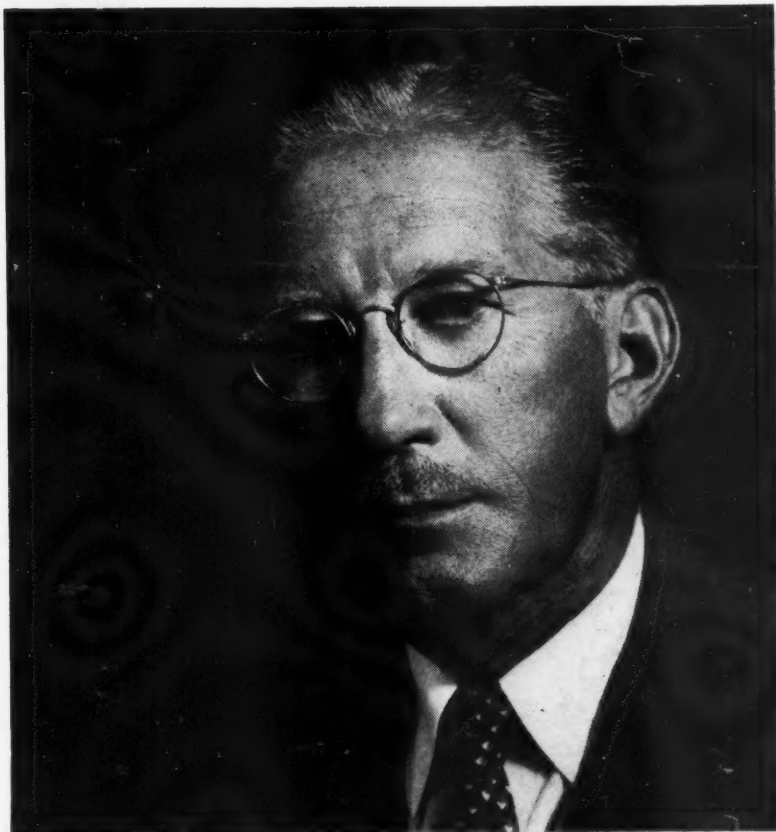
Results of latest
foreign credit survey

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Payment bonds do not
guarantee accounts

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Customers and salesmen
should be treated alike



Big man from small State . . . See page 3

A publication of

The National Association of Credit Men

Credit Interchange Bureaus
NATIONAL ASSOCIATION of CREDIT MEN
512-14 Arcade Building . . . ST. LOUIS 1, MO.

Little Stone House on the Campus

*"In academic shades
The artist's fame shall last."*

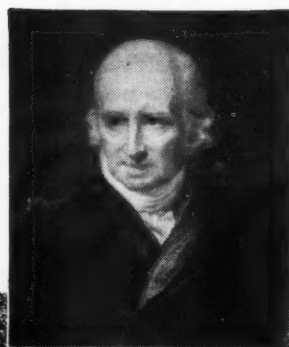


On the campus of Swarthmore College stands the house where Benjamin West was born in 1738. Now owned by the college, it commemorates the first American artist to achieve international renown.

Despite the rigors of the Pennsylvania frontier where West spent his boyhood, his talent found expression. When only six years old he made a remarkably lifelike picture of his sister's baby asleep in her cradle. From friendly Indians who saw his efforts he learned how to prepare red and yellow pigments and he made a paint brush by clipping hair from the family cat and binding it to a quill. Before he was out of his teens he was earning money as a portrait painter.

At the age of twenty-two West went to Italy where as an artist from a supposedly savage country he caused a sensation. Three years later he established himself in London and never returned to America.

Before leaving this country West had paid court to Elizabeth Shewell but her wealthy brother looked with disfavor on the struggling young artist. After West settled in London he wrote Elizabeth asking her to come over and marry him but the brother discovered the letter and locked Elizabeth in her room. However, three of West's friends, one of whom



was Benjamin Franklin, assisted the young lady to escape by means of a rope ladder and drove her to a ship which weighed anchor a few minutes later. On board was West's father who escorted her to the bridegroom.

West, one of the founders of the Royal Academy, became president after Joshua Reynolds' death; he was appointed historical painter to King George III and was offered knighthood but declined the honor.

In his painting "The Death of Wolfe" he revolutionized art by depicting the characters in costumes of the proper period rather than in classical garb as had been customary. As teacher and counselor of many of his compatriots, including John Copley, Gilbert Stuart, Charles Willson Peale and John Trumbull, he exerted great influence on American art.

West's sleeping niece served as an early model



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Editorial



The fate of empires depend on the education of youth

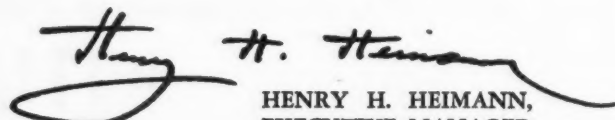
IN few countries is an education taken so much for granted as in our own. Moreover, year by year greater education achievement is demanded for the young. Today a college education is virtually indispensable in our competitive economic life. The responsibility of educators, too, has grown with the years. Many have met them faithfully. Some have not.

The West Point dismissals have broadened the debate on the need of moral education. Yet there is an even more insidious and dangerous trend in some educational institutions. There has been an increasing tendency in schools, colleges and universities to spoon-feed students on a socialistic philosophy; texts are specified by educators which by inference, innuendo and design misrepresent the social system that has made our nation great.

It is ironic that the funds to carry on this disguised propaganda originated from savings made possible by an economic system the texts condemn. The founders of our historic educational institutions would never recognize their creations today.

The men and women who endow institutions of learning now have the responsibility to see that their generosity will not in fact make it impossible for future generations to be equally liberal in their financial support of education. Should our children prefer a socialistic government that is up to them; but let us be certain that before they make their choice they be given the chance to explore the whole range of political economy.

The school bells will soon ring again. Let them be the resounding symbol of the faith upon which our founding fathers built.


HENRY H. HEIMANN,
EXECUTIVE MANAGER

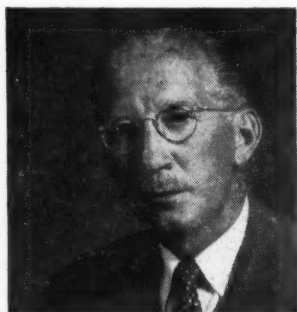
THIS MONTH'S COVER

His name—as if you didn't know—is Camilo Rodriguez and he has been a well-known figure in credit circles for some years. He has served as national director and vice-president for the Eastern division and is now chairman of the National Legislative Committee.

"Rod" has had quite a career. He was born in Cuba. When the Spanish-American War broke out his parents took him to Spain. When he was 11 months old they returned to Cuba where the son and heir finished his secondary education. To further his education he came up to Rhode Island and attended East Greenwich Academy.

After leaving the Academy he joined the Davol Rubber Company in the foreign department and while there supplemented his education with night courses at Bryant College, Brown and Northeastern. He worked his way up in the Davol organization through the superintendent's department, the service department and the credit department, becoming credit manager in 1932. By 1939 he was assistant secretary and in 1942 he added the duties of assistant treasurer. He is now executive vice-president.

Rod served two terms as president of the Rhode Island Association and is active in the Red Cross, is a speaker on international relations, a lecturer on credits, a 32nd degree mason—in short an all-round asset.



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THIRTY DAYS IN WASHINGTON

A check list of items of interest to Financial Executives

SENATE GROUP HAS OWN PLAN FOR TAXES: On August 21 the Senate Finance Committee tentatively approved a tax formula which would reduce the burden as voted by the House on both lower income citizens and those in the higher brackets. The Committee scrapped the House formula of a straight 12½% increase on present individual income rates. Its plan provides for a 3% increase in tax on the first \$2,000 of a taxpayer's net income after present Federal taxes and a 4% increase in tax on net income over \$2,000 after present Federal taxes. This decision by the Senate Finance Committee was the first action after long hearings and closed door discussions.

CONGRESS LOOKS TO OCTOBER 1: In Mid-August, after a conference at the White House it was announced by Congressional leaders that an effort would be made to finish the legislative program and adjourn by October 1. On August 20th the House voted to take a recess from August 23 to September 12th to permit the Senate to catch up on its legislative program.

At the time of this announcement Congress still faced dreary work on its job during the last half of August and all of September if the October 1 adjournment was to become a reality. Of the several "must items" on the legislative program as announced by the White House only the Defense Production Act of 1951 had been enacted.

Three very important "must items" remained on the agenda: The Administration's request for \$10 billion in addition revenue, 8½ billion for foreign economic and military assistance, and final agreement between the House and Senate on the various appropriation bills. (None of these appropriation bills had been passed by Mid-August and the Federal departments operated during July and August under "stand-by" appropriations.)

The White House asked for \$10 billion of new revenue from taxes. The revenue bill voted in the House called for \$7.2 billion. Members of the Senate Committee, such as Chairman George, thought that figure was too high but after two weeks of public hearings the Committee was working behind closed doors trying to agree on a revenue measure to represent its views for the Senate.

APPROPRIATION BILLS DELAYED IN SENATE: The House had passed, up to August 15, nine of eleven regular appropriation bills carrying a total of \$14.5 billion. Up to that time the Senate had passed six appropriation bills with a total of about \$12 billion. However, these actions by the House and Senate did not send the bills to the White House, for the conferees have been at loggerheads for weeks in a hot quarrel as to how reductions might be made in the appropriation for the Federal payroll.

The House received from its Ways and Means Committee a bill for Armed Services supplies. However, the Senate Committee is still holding hearings on this measure and it may tread a rocky path before agreement is finally reached between the House and Senate.

Haiti and Panama Lead in Latin-American Credit Survey

By PHILIP J. GRAY

Manager, Foreign Credit Interchange Bureau

HAITI and Panama received identical ratings to share top position in both credits and collections, in the 46th semi-annual survey conducted by the Foreign Credit Interchange Bureau, on commercial credit and collection conditions in Latin-American markets, during the first-half of 1951. They were followed closely by the leaders in past surveys, Cuba, Dominican Republic and Mexico. Argentina, Paraguay and Colombia were the only markets rated in the lowest credit classification of "poor" and in the low collection classification of "slow."

Creditwise, fourteen countries improved their positions in this survey. The most outstanding performance was registered by Peru which gained 51 points, Chile with 36, Bolivia 33, Costa Rica 14, and Nicaragua and Honduras up 11. On the other hand, Colombia showed a loss of 41 points, while Guatemala lost 24, Ecuador 17, Paraguay 14, and Venezuela down 11 points.

Score gains

In the collection survey, fifteen countries registered improvement, eight declined in ratings, while one, Cuba, remained unchanged. Chile recorded the greatest improvement with a gain of 23 points which raised that country from its former classification of "fairly prompt" to "prompt." Improvement was also registered by Bolivia up 20 points, Peru up 14, Argentina 11, Costa Rica 9, and Honduras up 8 points. Guatemala dropped 13 points, Ecuador lost 10, and Venezuela was off 6 points.

In the survey of credit terms granted in the first half of 1951 as compared with those of 1950, changes again paralleled collection experiences and chiefly involved the countries rated as "slow." In the current survey, removal or reduction of "backlog accounts" is reflected in "more liberal" terms to Brazil by 25% of the members reporting, and to Costa Rica by 13% and Argentina by 5%. Seven percent of the members reported granting "more liberal" accommodations to customers in Bolivia, Chile, Ecuador, Guatemala, El Salvador and Venezuela. "Less liberal" terms to Paraguay were reported by 15% of the members reporting, and similar reductions of terms were recorded by 14% on their business in Colombia and 12% in Guatemala. Largest percentages in "no change" classification were, of course, registered by the top-rated countries, Haiti, Panama, Mexico, Cuba and Dominican Republic.

The following comments taken from member's letters accompanying their survey reports should prove both interesting and enlightening.

Argentina

For reasons that are well known to those engaged in export operations, our company has made no shipments to Argentine buyers on a dollar draft basis for over two years, hence we have not reported any experience. We have been asking for letters of credit, but we believe this requirement limits our volume. We do not feel that we can get back to our previous substantial volume unless we are willing to liberalize our

terms, but, on the other hand, we do not wish to anticipate the disposition of other exporters regarding the extension of credit. According to recent reports, there has been an improvement in the country's economy and finances, and we shall be pleased to hear from you when you find that your other members in general are returning to sales on the basis of an extension of credit.

Bolivia

An examination of the survey of credit and collections which we just mailed to you leads us to say that our most unfavorable experience today is on shipments to Bolivia, Chile, and Colombia. Practically all of our sales to the Latin American area are on a dollar draft basis, and when U.S. dollars get in short supply we find ourselves faced with delays of five or more months. The natural inclination of any exporter under these circumstances is to refuse to ship further orders unless covered by letters of credit, but, unfortunately, the operations of an export business are not quite so simple. When credit relations are maintained with old customers abroad, they do not take kindly to a switch from draft sales to sales against letters of credit, and in several cases in the past we have found that our buyers abroad consider the elimination of credit terms a reflection on their personal credit. We will be interested to know how other exporters handle these situations as they develop, but referring specifically to Bolivia, we have a number of drafts now past due. Our collecting bank advises us "Unpaid due to lack of foreign exchange." We are instructing our representative to curtail sales.

Brazil

We are always interested to receive your semi-annual report of credit and collection conditions in the Latin-American markets, as it gives us an excellent opportunity to check our experience with that of other exporters. From time to time in the past we have commented unfavorably on some markets. While we are watching several countries for future developments, we would like at this time to comment favorably on Brazil, where are experience

Comparison of Credit and Collection Index Figures

(Based on Surveys on Credit and Collection Conditions in Latin America)

| | Credit Conditions | | | Collections | | |
|-------------------------|-------------------|-----------|-----------|-------------|-----------|-----------|
| | July 1951 | Jan. 1951 | July 1950 | July 1951 | Jan. 1951 | July 1950 |
| Argentina | 195 | 190 | 180 | 44 | 37 | 14 |
| Bolivia | 242 | 209 | 183 | 68 | 48 | 37 |
| Brazil | 240 | 245 | 200 | 62 | 65 | 36 |
| British Possessions | 290 | 287 | 285 | 89 | 86 | 85 |
| Chile | 277 | 241 | 189 | 83 | 60 | 35 |
| Colombia | 179 | 220 | 206 | 41 | 43 | 42 |
| Costa Rica | 226 | 212 | 185 | 57 | 48 | 31 |
| Cuba | 292 | 292 | 290 | 91 | 91 | 90 |
| Dominican Republic | 291 | 294 | 287 | 91 | 92 | 88 |
| Ecuador | 248 | 265 | 260 | 69 | 79 | 77 |
| French Possessions | 290 | 289 | 285 | 89 | 88 | 85 |
| Guatemala | 246 | 270 | 260 | 69 | 82 | 78 |
| Haiti | 294 | 294 | 290 | 93 | 92 | 90 |
| Honduras | 259 | 248 | 228 | 76 | 68 | 62 |
| Mexico | 293 | 292 | 278 | 92 | 90 | 80 |
| Netherlands Possessions | 290 | 288 | 285 | 90 | 86 | 85 |
| Nicaragua | 285 | 274 | 269 | 85 | 81 | 79 |
| Panama | 294 | 293 | 290 | 93 | 91 | 90 |
| Paraguay | 181 | 195 | 186 | 42 | 38 | 48 |
| Peru | 275 | 224 | 208 | 82 | 68 | 41 |
| Puerto Rico | 288 | 283 | 276 | 88 | 84 | 83 |
| El Salvador | 271 | 269 | 228 | 81 | 80 | 67 |
| Uruguay | 278 | 285 | 273 | 84 | 88 | 82 |
| Venezuela | 269 | 280 | 262 | 79 | 85 | 78 |

Credit—GOOD: 250 and up. Lowest percentage 50% good, 50% fair.
 FAIRLY GOOD: 225 to 250. Lowest percentage 25% good, 75% fair.
 FAIR: 200 to 225. Lowest percentage 100% fair.
 POOR: 175 to 200. Lowest percentage 75% fair, 25% poor.
 VERY POOR: Below 175.

Collections—PROMPT: Over 70% prompt or fairly prompt collections.
 FAIRLY PROMPT: 50% to 70% prompt or fairly prompt collections.
 SLOW: 40% to 50% prompt or fairly prompt collections.
 VERY SLOW: less than 40% prompt or fairly prompt collections.

during the present year has been exceptionally good. We have expanded our market there, and with a few exceptions collections are paid promptly.

Chile

While we have reported RP (Remit promptly) on Chilean collections, we think we should comment on our policy, as we do not wish our experience to be misleading. We sell on a sight draft basis to a few good, old-established buyers, and exchange apparently is available to them in the free market, as payments are received promptly. However, the greater part of our exports to Chile is on a letter of credit basis. The country's exchange and import regulations appear to us to be rather complicated, and, in our opinion, the letter of credit gives us the maximum amount of security.

Colombia

As you know from past experience with our company, we are rather selective on sales abroad and we more or less pick countries where payment experience is satisfactory. However, we must say that Colombia presents a very puzzling picture. Our sales agent has been very

active in the market and we receive numerous orders from him. Payments have slowed down and our credit manager has instructed the export department to restrict further shipments until such time as our backlog is paid out. Some shipments we made in the early part of the year are still unpaid, while payments have been coming through on April and May shipments. Perhaps you can enlighten us as to the reason why payment experience in Brazil and Colombia, both of which create most of their dollar exchange from coffee exports, should be so different.

Costa Rica

At this time last year, we advised you that we had stopped selling to Costa Rica on sight draft terms because we were apprehensive about the country's heavy backlog of commercial debt. Since then Costa Rica has made remarkable progress and we understand the \$20,000,000 backlog has been completely liquidated. All of our old drafts have been paid. With this changed picture, we began selling on sight draft terms again, and with one or two exceptions our payment experience to date has been excellent. Our agent in San Jose recently asked us to increase our

sales to this market by granting sight draft terms to other customers, and we are inclined to do so.

Ecuador

We seem to be experiencing a slight delay in receiving remittances in settlement of our sight draft shipments. We realize that the drafts are paid in local currency and then application is made to the Exchange Department of the Banco Central for the required dollar exchange. However, our records indicate that dollar exchange formerly was delivered within a week's time, whereas now it seems to be taking two weeks or more after the local currency is paid before the dollar exchange is remitted. We would appreciate hearing whether others are experiencing this delay and whether they feel that it is due to a shortage of dollar exchange or whether it is perhaps due to a delay in processing the applications by the Exchange Department. We are inclined to believe the latter to be the case, because reports show that Ecuador has increased its exports to the United States, whereas imports from here have continued at a steady figure.

Nicaragua

We have been shipping to buyers in Nicaragua on sight draft terms for over three years, and during that time most of our drafts have been retired promptly. At the end of last year, we noticed a slight delay on a few items, but this undoubtedly was caused by the introduction of the new exchange controls in January 1951. So far this year all payments are coming through in six to eight weeks. It has been interesting to watch the excellent system this country employs in balancing its limited foreign exchange earnings against its importations. Other countries which periodically seem to mismanage their exchange operations would, in our opinion, do well to study the exchange control system of Nicaragua.

Peru

Since the regulations were published in April, 1951, outlining the procedure to be followed in order to settle the backlog of exchange au-

thorizations issued at the rate of 6.50 soles to the dollar, we have been pressing our customers in Peru to make settlement on these long outstanding drafts. Many of our customers seem reluctant to settle now when they realize that they will probably have to wait four years before they are reimbursed for the difference in rate as stipulated by the Peruvian Government in the regulations. You will recall that when I telephoned you I pointed out that these old outstanding items were not reflected in my summary of credit and collection conditions, as I reported that payment was being recovered promptly on the greater part of our current shipments to Peru.

Salvador

In our report to you on credit and collection conditions, we reported collections on Salvador from fairly prompt to slow, and as there are no exchange or import restrictions in the country, we think we should explain our reason. Our records show a few unpaid drafts drawn in March and April and a number in May. The explanation we get from the collecting bank is that the drafts are being held for arrival of merchandise. We question the authenticity of that statement and believe that the delay must be occasioned by lack of cooperation on the part of buyers, a tight local credit situation, or by overstocking on the part of buyers.

Uruguay

Notwithstanding that Uruguayan

Survey of Terms Granted During First Half of 1951
As Compared With 1950 Terms

(In percentages of replies received)

| | No Change | More Liberal | Less Liberal |
|------------------------------|-----------|--------------|--------------|
| Argentina..... | 95% | 5% | —% |
| Bolivia..... | 89 | 7 | 4 |
| Brazil..... | 72 | 25 | 3 |
| British Possessions..... | 93 | 4 | 3 |
| Chile..... | 91 | 7 | 2 |
| Colombia..... | 80 | 6 | 14 |
| Costa Rica..... | 80 | 13 | 7 |
| Cuba..... | 96 | 2 | 2 |
| Dominican Republic..... | 96 | 2 | 2 |
| Ecuador..... | 88 | 7 | 5 |
| French Possessions..... | 93 | 4 | 3 |
| Guatemala..... | 81 | 7 | 12 |
| Haiti..... | 97 | 2 | 1 |
| Honduras..... | 92 | 4 | 4 |
| Mexico..... | 94 | 4 | 2 |
| Netherlands Possessions..... | 93 | 4 | 3 |
| Nicaragua..... | 93 | 3 | 4 |
| Panama..... | 96 | 3 | 1 |
| Paraguay..... | 80 | 5 | 15 |
| Peru..... | 91 | 5 | 4 |
| Puerto Rico..... | 92 | 4 | 4 |
| El Salvador..... | 90 | 7 | 3 |
| Uruguay..... | 91 | 4 | 5 |
| Venezuela..... | 90 | 7 | 3 |

finances appear to be in good shape, with a plentiful supply of foreign exchange, all our sales to buyers have been on a letter of credit basis. Our policy has no reflection on the country or the credit standing of buyers. Our buyers seem perfectly willing to open letters of credit without pressure from us and we are happy to have the business on that basis, particularly as merchandise for which an import license is necessary is subject to fines or re-shipment if brought into the country without a license.

Venezuela

Our report indicates good credit and collection experience, which is true for most of our customers.

There have been a few customers, however, who have been delaying payment for one reason or another, and I also have experienced a falling off in new orders. Our agent has written, explaining that there was quite a bit of over-buying after the outbreak of the war in Korea and that many merchants have still quite a lot of merchandise on the shelves. He also stated at the time that the local credit situation is quite tight, which reasons account for the slow pay of some customers in Venezuela.

334 reporting

The 334 American manufacturers and exporters contributing to this survey are located in all parts of the United States. They represent a veritable cross-section of American products, the majority of them reporting on all the markets included in this survey. In compiling this survey, no consideration is given to the question of governmental debts or service obligations, and the classification of "credit conditions" refers to the situation within the various Latin-American markets from the commercial point of view only, as judged by American manufacturers and exporters. Comments made by those replying to the survey under the general heading "collection conditions" may be considered as indicating the current trend based on the definite experience of American manufacturers and exporters having commercial collection items in the markets surveyed.

Current Survey of Collections—July 1951

(In percentages of replies received)

| | Prompt | Fairly Prompt | Slow | Very Slow |
|-------------------------|--------|---------------|------|-----------|
| Argentina | 31% | 13% | 12% | 44% |
| Bolivia | 57 | 11 | 18 | 14 |
| Brazil | 51 | 11 | 19 | 19 |
| British Possessions | 81 | 8 | 6 | 5 |
| Chile | 70 | 13 | 9 | 8 |
| Colombia | 29 | 12 | 21 | 38 |
| Costa Rica | 51 | 6 | 19 | 24 |
| Cuba | 83 | 8 | 5 | 4 |
| Dominican Republic | 82 | 9 | 6 | 3 |
| Ecuador | 60 | 9 | 18 | 13 |
| French Possessions | 80 | 9 | 7 | 4 |
| Guatemala | 59 | 10 | 19 | 12 |
| Haiti | 85 | 8 | 4 | 3 |
| Honduras | 68 | 8 | 16 | 8 |
| Mexico | 82 | 10 | 3 | 5 |
| Netherlands Possessions | 80 | 10 | 5 | 5 |
| Nicaragua | 77 | 8 | 8 | 7 |
| Panama | 84 | 9 | 4 | 3 |
| Paraguay | 29 | 13 | 19 | 39 |
| Peru | 70 | 12 | 7 | 11 |
| Puerto Rico | 79 | 9 | 6 | 6 |
| El Salvador | 74 | 7 | 10 | 9 |
| Uruguay | 78 | 6 | 9 | 7 |
| Venezuela | 69 | 10 | 9 | 12 |

Payment Bonds Do Not Guarantee an Account

by JAMES A. NICKERSON

General Credit Manager and Assistant Controller
The Trailmobile Company, Cincinnati

WHEN we talk about payment bonds, we consider primarily construction work being done for the Federal Government or for the States or their political subdivisions. While payment bonds occasionally exist in connection with private construction work, they are the exception rather than the rule, and, since those types of payment bonds would arise out of a contract, I think that we can say in passing that any rights that a sub-contractor or material man would have in private construction work would depend on the terms of the bond.

As far as the payment bonds are concerned on State or local political subdivision work, those laws vary with the several states, and it is not feasible to try to discuss what the procedure would be in each one of the forty-eight States.

I might point out, however, that there are two possible methods of protecting yourself insofar as the material man or sub-contractor is concerned on work that is being done for a State or local political subdivision.

No lien against governments

At this point, I believe that it is well to point out that there is no such thing as a mechanic's lien on property owned by the Federal Government, a State government or any of its political subdivisions. There is a fundamental law that the government, whether it be Federal, State or local, is sovereign, and you can appreciate that public policy



The author is a member of the bars of Illinois and Ohio and teaches commercial, law, credit management and financial statement analysis at the University of Cincinnati Evening College. From 1929 to 1937 he was a member of the credit department of Jos. T. Ryerson & Sons, Chicago. He was transferred to Cincinnati in 1937 to head the credit office there. Since 1944 he has been with his present company.

would not permit a mechanic's lien to be filed and a foreclosure suit held, for instance, on a post office so that the supplier could recover the value of plumbing fixtures. The reason I mention this particular instance is that when I was in credit work in Chicago, Illinois, there was a credit manager who actually tried

This article is adapted from an address delivered by the author before the Machinery & Supplies Credit Group during the 55th annual Credit Congress in Boston, Mass.

to file a mechanic's lien and foreclose on a federal building.

In some States, for example Ohio, it is provided that any sub-contractor, material man, laborer, or mechanic providing material or labor on any public improvement may file with the Board, officer or clerk in charge of such public improvement an itemized statement of the amount due on the account. It is further provided that such Board, officer or clerk shall detain subsequent payments from the principal contractor or sub-contractor to secure such claim. This comes about as close to being a lien as is possible under any State law that I know of. There are a number of States which have somewhat similar provisions, although in many states there is no lien allowed on the fund, and the only security for a sub-contractor or material man lies in the bond which is required.

State bonding requirements are covered by statutes in all States except Kentucky, Maine, South Carolina and Virginia. However, as a matter of public policy a bond protecting labor and material men is required by the State Highway Departments of those States.

Varying laws

The State bonding requirements, of course, are as varied as there are laws in each State. The laws vary as to the amount of bond, the type of a payment or performance bond that is required, and the notice which is given. One word of caution, and that

is that care should be taken to determine whether or not the bond required under the State law protects you. In some instances the bond may run only to sub-contractors, in other cases it may run to sub-contractors and their material men. Occasionally a question comes up as to whether or not a sub-sub-contractor or a sub-material man, i.e., one who furnishes material or supplies to a material man who has a contract with a sub-contractor, is covered. I cannot give you the answers without knowing the particular State on which the problem is involved.

Do not forget that the important thing in all problems under State bond payment laws is the necessity for filing a notice with either the surety, the general contractor, or whoever else is designated by law as a party with whom the notice of nonpayment is to be filed. The time during which the notice must be filed is, of course, a prime requisite because failure to file the claim within the proper time means that there is no way of recovering against the payment bond.

The Miller Act

Now to come to the meat of our discussion, which will center on the Miller Act. I might state that this law was placed in effect in 1935 to supplement the old Heard Act which had been felt to be inadequate insofar as protection of creditors was concerned where work was being done for the Federal Government.

The present law provides that before any contract in excess of \$2,000 for the construction, alteration or repair of any public building or public works of the United States Government is awarded, two bonds must be furnished.

The first is a performance bond which runs in favor of the United State Government and is in such amount as may be required by the contracting offices for the protection of the Federal Government. The second is a payment bond with such sureties or assuery satisfactory to the contracting officer, for the protection of all persons supplying labor and material to the prosecution of the work provided for in the contract, and for the use of each person who is furnishing such labor or material.

The amount of the payment bond is to be one-half of the contract price where the contract is not more than \$1,000,000, 40 per cent of the contract price where the contract is from \$1,000,000 to \$5,000,000, and a bond for \$2,500,000 where the bond is in excess of \$5,000,000.

Performance and payments

The distinction between the performance bond and the payment bond is illustrated by the case of *Lichter vs. Henke Construction Company*, 35 Federal Supplement 388, which was decided in 1940.

In that case the plaintiff, who was a sub-contractor, sued the bonding company under the performance bond which had been given to the U. S. Government on the grounds that the Government and the general contractor had made it impossible for the sub-contractor to complete his contract. The plaintiff claimed that he was entitled to recovery under the performance bond. Since there had been a performance bond given, the plaintiff claimed the contractor was to complete the work required.

The court held, however, that the sub-contractor is entitled to recover only under the payment bond where he is protected only for labor and material which are supplied by him on the job. The inference is that there is no recovery for delays for a sub-contractor where those delays are caused by a prime contractor or the U. S. Government. In other words, the sub-contractor could recover for the value of his contract insofar as labor and material had been furnished, but he had no right to require that the work be completed so that he could have full recovery under his contract.

Could not move equipment

Another interesting case entitled *Edward E. Morgan vs. the Maryland Casualty Company*, 147 Federal (2) 423, decided in 1945 was based on these facts. The U. S. engineers ordered the general contractor, and the sub-contractor in turn, to stop work in connection with the building of a levee. It appears that the railroad company, under whose trestles the levee was being completed, claimed that further work on the levee would endanger the trestles.

After the order to stop work was served, the U. S. Engineers refused to let the sub-contractor move his construction equipment. It was not until 31 days had elapsed and the contract had been formally terminated that the sub-contractor was permitted to move the equipment. During those 31 days the sub-contractor claimed that he was entitled to recover \$17,378.25 for the use of the equipment, or, stating it another way, for the loss of the use of the equipment.

The general contractor refused to pay and a suit was filed by the sub-contractor against the bonding company. The court held among other things that rental or use value of sub-contractor's equipment while it was lying idle was not an item that could be recovered from the bonding company. In this case there was no question about the liability for the equipment while it was being used; it was merely the question of the ability to recover for the non-use of the equipment for 31 days.

I mention this case because those who are renting equipment might find that they are confronted with such a problem and might wonder whether or not they could recover for idle time while the equipment which they rent is being held without use.

Another requirement

One of the very important points in the Miller Act is the requirement that any person having a direct contract or relationship with a sub-contractor, but no contract or relationship either express or implied with the principle contractor, must give written notice to the contractor within 90 days from the date on which the person performs the last labor or furnishes the last material stating with accuracy the amount claimed and the name of the party for whom such material is furnished or supplied, or for whom the labor was done or performed. Such notice merely has to be mailed by registered mail, postage prepaid in an envelope addressed to the contractor at any place in which he maintains an office or conducts his business. There is no requirement that any service be given to the surety.

In the case of *MacEvoy vs. U. S. Government for the use of Galvin Tompkins*, 322 US 102, the Su-

preme Court of the United States rendered an opinion in 1944 that the Miller act does not subject a bonding company to liability under the payment bond to a supplier who furnishes material to a material man.

The court says that the right to bring a suit on a payment bond is limited to two classes. First are those material men, laborers or sub-contractors who deal directly with the prime contractors, and second, those material men, laborers and sub-contractors who, lacking express or implied contractual relationship with the prime contractor, have direct contractual relationship with a sub-contractor and give the statutory claims to the prime contractors. The court goes on to say that "to allow those in more remote relationship to recover on the bond would be contrary to the clear language of the proviso and to the expressed will of the framers of the act. Moreover it would lead to the observed results of requiring notice of persons in direct contractual relationship with a sub-contractor but not from more remote claimants."

In this case the court also distinguished between a sub-contractor and a material man. It pointed out that while in one sense of the word a material man might be considered a sub-contractor, actually a review of the proceedings before the legislative committee who worked on the Miller Act would indicate that there was a clear distinction between the classification of sub-contractors and material men.

Precedents

In the case of *Bruce Company vs. Frazier Construction Company*, 87 Federal Supplement, page 1, decided in 1949, the court held that the Miller Act will be liberally construed, but conditions precedent must be complied with before an action can be brought against the insurance company. It was held that the 90 day notice by the material man to the sub-contractor is a condition precedent and unless this is strictly complied with, no action will lie.

There is an interesting decision on this point which is brought out in the case of an electrical contractor who defaulted and the general con-

tractor told the supplier to keep on furnishing material and the general contractor would see that the supplier was paid. The supplier gave no notice, and in remanding the case to the lower court, the upper court suggested that possibly there was an implied contract, and if so, the supplier would not need to give notice to the general contractor. That again relates back to the statement I made earlier that any person having a contractual obligation with the sub-contractor, but no contractual relationship expressed or implied with the general contractor, must give written notice. Here the court apparently felt there was a possibility of an implied contractual relationship with the principal contractor, and in that case no notice would have to have been given.

It is also provided that every person who has a right to sue under a payment bond must do so within one year after the date of the final settlement of the principle contract by the United States.

Another case

In the case of *Genessee Sand and Gravel Corp. vs. Fleisher Engineering and Construction Company*, 45 Federal Supplement 781, decided in 1942, the facts indicated that the final settlement by the Federal Government was made by the general accounting office on February 28, 1938. Suit was not begun by the material man until January, 1940, at which time you can see that more than one year had elapsed since the final settlement. It was held that the suit would not lie by the material men who had failed to sue within the year as required by the law. I think that this is so plain that it does not need any further explanation.

Even with fear of repeating myself, I think it is well to point out that if your relations are with a prime contractor, either as a material man or supplier to the prime contractor, or if you are a sub-contractor, then no notice is required to the prime contractor of non-payment. In other words, the prime contractor is supposed to know whether or not he is paying his bills. Of course, the suit against the bonding company would still have to fall within the one year period.

In the case of *Hargis vs. Maryland Casualty Company*, 64 Federal Supplement 522, decided in 1946, it was held that where a public works contractor not only agreed in writing to pay certain obligations which the sub-contractor might incur but actually did make payment, and where the general contractor not only knew that certain equipment was used by the sub-contractor, but through invoices and other written documents was apprised of the claim and took action indicating that the contractor interpreted his agreement with the sub-contractor as a direct obligation to pay, the owner of equipment who was renting it to the sub-contractor was not required to give the statutory notice within the 90 day period as a condition precedent to filing a suit under the contractor's payment bond.

It is well established under the decisions that a contract which provides for the rental of equipment is subject to the Miller Act, therefore one who has money due for the rent of the equipment may recover if the sub-contractor defaults, providing of course notice is given within 90 days to the general contractor and the suit filed within one year as previously discussed.

No recovery for rental

In the case of *Jaeger Machine Company vs. Burch & Sons Construction Co.*, 43 Federal Supplement 726, decided in 1941, the facts were that the parties, i.e., Machinery Supply Company and the sub-contractor, had agreed that certain equipment was to be furnished to the sub-contractor for use on a road contract. It was further provided that the equipment was to be paid for on delivery. However, no payment was made and upon the termination of the job the equipment was returned to the supplier. There was never any rental agreement, but the supplier sued the bonding company for the value of the rental of the equipment. The court decided (and I believe that there can be no disagreement with the decision based on a sound analysis of the law and the facts) that if it can be proved that the parties agree upon the rental of equipment, there can be a recovery for the rental value thereof under the payment bond pursuant to

(Continued on page 37)

Credit-Sales Cooperation? Customers and Salesmen—

They're All Alike!

by EARLE BOWLES
City Credit Manager, McKesson & Robbins, Inc., Chicago

IN THE development of sales-credit cooperation, I think we must go right to the basic approach, the company as a whole. Many years ago, Justice Marshall handed down the decision that a corporation is a legal *person* and as such can sue and be sued in courts. Even without the legal concept, we are all aware that each company has a "personality" or to quote the dictionary, "that which distinguishes and characterizes." To a customer, a company's personality is the human element as he knows it—the feelings aroused at sight of its letterhead or the mention of its name.

In older days of small business—even present day small business—this personality was determined largely by personalities of the owners and managers. In present large business the company personality must be moulded (as we are all aware) by advertising and public relations programs. However, all these broad and carefully worked out programs fade into the background to customers who are actually dealing with the company. To them, the personality of a company—their feelings aroused toward it—are in truth determined by their actual contacts with the company, and these contacts occur principally through the sales department.

The sales department, in carrying out its function of selling, is constantly striving for friendly feelings from customers. Selling and friendliness are parallel. The credit department, in performing its function, does *not* find money collection and friendly feelings running in natural parallel lines.



The author graduated from Ohio State University and joined McKesson & Robbins that same year. Before 1941 he spent several years as Manager of a retail store. He served McKesson & Robbins as Office Manager until 1943 when he was commissioned in the Navy being released to inactive duty in 1946. Since that time he has been City Credit Manager at McKesson & Robbins.

Needs study and skill

We do not need to be told that it takes study, combined with a natural skill, to handle credit successfully. We must remember in every situation that we in credit, as well as the sales force, are day by day shaping the *personality* of our company in the minds of our customers. In fact, there are two reasons for

This is an adaptation of a talk delivered before the Drugs, Cosmetics and Pharmaceutical Industry Group during the 55th annual Credit Congress.

contending that our impact on personality development is even stronger than the salesman's. First, feelings toward us, through the personal touch or through correspondence, arouse feelings aimed more directly at the company office itself, while a salesman's impact is strongly personal to him. Second, money matters with which we deal, are so intensely personal that they are quick to arouse intense emotions.

Thus, it is important for us to think constantly of our individual role in developing our company's personality. It is just as important that the sales department realizes the responsibility we have in developing good customer relations. If every employee of the company can understand these truths, then cooperation between salesman and credit manager is the inevitable accomplishment and the liaison details are simple. They will mesh together with an admixture of independence and cooperation.

Good will

The credit manager has a definite responsibility to the sales department and to the company itself in promoting good will.

The court has expressed the opinion that "The good will of a business is the custom which it attracts and the benefits or advantages it receives from constant or habitual customers, and the probability that the old customers will continue to come to the place."*

A law dictionary describes good

* Johnson V. Friedhoff 27 N.Y.S. 982,983,7 Misc. 484.

will as the "advantage or benefit which is acquired by an establishment, beyond the mere value of the capital stock, funds, or property employed therein in consequence of the general public patronage and encouragement which it receives from constant or habitual customers on account of its local position or common celebrity or reputation for skill, affluence, punctuality, or from accidental circumstances or necessities or even from ancient partialities or prejudices."**

All for one

We can interpret these definitions simply by saying that good will is merely our good relations with our customers, or is the art of getting along with our customers. Furthermore, we can say it is the spirit of furthering the interest of our customer relations, publicity programs, and activities in which we endeavor to build good will. Fundamentally and essentially customer relations is an operating philosophy and must be applied in the grass roots of every department of every company. Too frequently, the main purpose of our entire distribution program is lost sight of because of specialization on the part of different departments. Each employee is very apt to consider himself as a department instead of a company representative. The sales department and the credit department must interlock to build sales and at the same time build the good will that is essential.

Customer relations is not something that can be pointed out as a separate department or as any particular phase of our business. Actually, as Paul Garrett, Vice President of General Motors says, it is a state of mind or an attitude of mind, a philosophy of management, which, with enlightened selfishness, places the broad interest of our customers first in every decision affecting the operation of our business. All the activities of our company are so interrelated that many times you will not be able to distinguish what is customer relations and what is efficient plant operation. The most successful company will be that which can make no distinction, for this reason—what helps one helps the other.

**The Collegiate Law Dictionary-American Law Book Company.

Study customer relationships

To get a better picture of customer relations, study your customers and your relationship to them. If you are to build good will, it is an obligation to yourself and to your customers, who keep your company in operation, that you continuously survey your business practices, analyze your points of weakness and points of strength, maintain high ethical standards, and, where a change is needed, demonstrate your capacity for making the change. Your big task is to win loyalty. To obtain this result is not lip service but a definite matter of actions day by day.

In your efforts to improve customer relations you will encounter many difficulties. However, remember that a man's opinions are formed by his emotions. Emotion dictates the decision, and then he reasons to justify his emotions. You may have the finest relationship with a customer only to have it nullified by the discourtesy of just one person who represents you. The most important place to cultivate good friendship and relationship is at the point of personal contact. Every employee from the president down to the office boy must be a salesman of good will. For years the Telephone Companies have used a slogan—"The Voice with a Smile," which is now as generic in the telephone field as the word "Band-aid" is to the drug field.

Starting principle

If we were a group of engineers attacking this problem of customer relations, we would probably start out with the engineering principle—"For every action there is an equal and opposite reaction." We are not engineers but this very principle can be applied to human relations as well as to engineering. Your customers are impressed, either favorably or unfavorably, by the actions of anyone representing you in your respective company, and the reaction from the customer will likewise be favorable or unfavorable. Knowledge of the customer is the first step in bettering your relations with him. From the standpoint of good will, even more important than giving the customer what he wants on terms that he wants and in the

way he wants is making him see that you have a real interest in his welfare as well as your own. Within your company develop a spirit of personal friendliness and helpfulness on the part of every employee. A smile and a sense of humor are the lubricants of human relations.

These are general principles which must govern a credit manager's attitude toward the sales department and towards the company. There are certain specific obligations in carrying out these responsibilities.

Trade visits

In far too many cases, the only contact a customer has is through the salesman. This customer does not have the feeling of attachment, nor is he a part of the company, until he feels he knows someone in the office itself. Too often we credit men are inclined to lapse into a coma of "arm-chair inertia" and neglect this vitally important function of making trade visits. Decide for yourself that this is a *must* and allocate certain days for you, as well as other company executives, to make trade visits. It is advisable to establish a minimum number of accounts to be called upon during each such day. One advantage of trade visits is that it always allows you to analyze the present and potential status of your firm in relation to all classes of customers. Another advantage is that you are able to make close observation of the customer's store or plant location, fixtures, merchandise and methods of operation. Many opportunities are afforded to pass along words of friendly praise even though with enlightened selfishness. There is no better way to build good will than with trade visits.

Appreciation letters

With the long range point of view in mind, it is incumbent upon every individual under your supervision who writes letters to bend every effort to inject a bit of good will into every letter. The simple and inexpensive letter which carries a three cent stamp can return benefits too immense to measure.

Wouldn't you, as a customer, experience a glow of satisfaction if
(Continued on page 38)

COOPERATION PAYS OFF

by ROBERT L. DIETZ

Credit Manager, Emerson Radio of Washington, D. C.

COOPERATION has been one of the most potent forces in human progress. The farmer, scientist, laborer, executive, athlete, each, has made some contribution which has improved the lot of all. For the credit executive cooperation is a vital necessity. He recognizes the interchange of confidential ledger information and experience as the blood stream which pumps life into a sound credit economy, and he respects this harmonious cooperation as an important asset in the performance of his function.

What then happens to our purveyors of credit when a bad debt is about to be born? The birth of a child normally cements and strengthens the marital relationship. Among credit men, however, it seems to be an immediate signal for estrangement and divorce.

When he receives the letter which informs him that X company is in financial straits, he immediately becomes a lone wolf. His normal cooperative instincts become submerged and he fails to recognize any kinship with his fellow creditors. He goes all out to protect his own interests to the exclusion of the others. He employs his own legal counsel and each lawyer adopts his own procedures. Variegated thoughts bring duplication of function. Result—confusion, dissipation of assets, probably bankruptcy. Who gains? Only the trustee in bankruptcy. Why? Total lack of cooperation.

A case in point

I would like to describe a situation which recently developed in the District of Columbia. A creditors' meeting was called by a debtor's attorney. Eighteen creditor represen-



Robert L. Dietz is a graduate of New York University with degrees of B.S. and Juris Doctor and has been a member of the New York Bar since 1937. He engaged in private law and in the real estate business in New York City until 1941. He served in the armed forces from 1941-1946 when he resumed law practice in New York. In 1948 he was appointed to his present position.

tatives were present. The debtor's attorney blithely informed them that his client's liabilities totalled in excess of \$25,000.00. Available assets amounted to \$12,000.00. The assets were composed of white goods (refrigerators, freezers, etc.) television sets, radios and traffic appliances. Since the market for these items was currently in a depressed state, he felt that the available inventory would not realize more than \$5,000.00. His client was willing to pay \$5,000.00 in cash to discharge his total indebtedness. This represented a 20% settlement, and would be paid over 120 days.

A financial statement was submitted for the creditors' perusal. It was the usual bleak document of a

firm in financial difficulties. One item, however, described as "Inventory transferred in payment of salaries," blatantly pleaded for investigation. Upon questioning, the attorney stated that he had advised the debtor to withdraw this amount of inventory in lieu of earned salaries which he had not received. The withdrawn inventory was valued at \$15,000.00. These assets were transferred to a corporation of which the debtor was both an officer and a stockholder. The attorney was of the opinion that his client's legal position was sound and that the withdrawn inventory could not be recovered by the creditors. He urged that his client's offer of a cash settlement be accepted. His words and manner indicated that those assembled should be grateful for the bone which was being tossed in their direction.

Bone was not enough

Fortunately several of the creditors were dissatisfied with the bone. They called their own meeting. At this meeting the more timid souls displayed the usual reluctance. "Take what we can get," the first loss is the cheapest one. These and other comparable cliches were compounded. Others were non-committal. They must consult their company's lawyer. The net result of this meeting was the appointment of a creditors' committee possessed of limited powers.

The committee was composed of representatives of the three largest creditors. They decided upon joint and cooperative action. They retained outside counsel to represent the committee. The door was left open for the other creditors to join.

(Continued on page 37)

*The principles and policies
that should be followed when*

A Creditor's Committee Takes Charge

by RALPH N. LEITZELL

Vice-President, Treasurer and Director
Federal Machine and Welder Co., Warren, Ohio

THE first thing any Company executives must do, when they find themselves in the position of not being able to meet their trade accounts as they became due, is to carefully survey with some of their larger creditors the over-all condition of the company to determine whether the formation of a creditors' committee can succeed in solving the problem.

While it may not be possible to definitely conclude that the formation of a creditors' committee will be completely successful in the solution of the financial problems facing the company, nevertheless, a complete survey will show that if the matter is approached in the proper way, there is a strong possibility that the situation can be remedied. You and I both know that in some situations there is absolutely no hope of putting a company back on its feet; that conditions, for one reason or another, have gotten to the point where the only way money can be obtained to pay off a company's liability is by liquidation. If the larger creditors and the management of the company recognize that such a situation exists, it is a waste of time and money to attempt to correct a hopeless situation. On the other hand, if a careful survey shows that the causes of the condition of the company can be corrected, and that by taking drastic steps it appears reasonable to assume that the financial condition of the company can be strengthened, and that by keeping it in business with the existence of a creditors' committee its debts can be



Ralph N. Leitzell was born in 1902 at Johnstown, New York, and was graduated from Union College at Schenectady, New York in 1925. He formerly served as vice-president and treasurer of Utilities and Employees Securities Company at Wilmington, Delaware. He joined the Federal Machine and Welder Co. in 1942 as chief accountant and was elected assistant treasurer in 1945, treasurer in 1948 and vice-president and director in 1950.

paid, then I believe that the time and work necessary to accomplish this are certainly worthwhile, both from the creditors' standpoint, as well as that of the company.

Why did it happen?

Once this survey has been completed, and the answer is that the efforts will produce results, then a second survey should be made. This survey to me is one of the most im-

This is the text of an address given at a meeting of the Credox Club of The Credit Association of Western Pennsylvania.

portant steps to be taken, and it involves a careful analysis as to the reasons why a creditors' committee is being formed. This survey is one that must be done carefully, seriously, and conscientiously, by the management of the company involved.

The company must first recognize that there are some basic reasons why it is in the position that it finds itself. While occasionally some companies find themselves in serious difficulties for reasons beyond their control, such as destruction of their plant by fire, long strikes, temporarily frozen inventories, or some similar reasons, usually these conditions are of such a nature that they can be weathered by a company without taking such drastic steps as the formation of a creditors' committee.

Nine times out of ten, however, the reasons are more far-reaching than that. Almost invariably such a survey will show that the basic reasons are caused by certain positive actions on the part of the management of that company. These reasons may be over-expansion, failure to properly survey market conditions in the development of a new product, poor business judgment, or any one of many definite reasons. However, the basic reasons must be recognized and admitted on the part of management. They must fully admit in their own minds that the condition exists and they must have a sincere desire to correct the causes which led to such a condition. There can be no half-hearted lip service rendered. There must be a sincere and honest

Which way to turn?

The legal problems which a credit executive must face in the course of his daily work are many indeed. And one mistake can wipe out ten profits. Yet most of these problems are **routine**, matters which will crop up time and time again.

That is why, forty-four years ago, the CREDIT MANUAL of COMMERCIAL LAWS was compiled and why it is revised year after year. Credit executives reach for it when a legal problem must be faced. For the CREDIT MANUAL of COMMERCIAL LAWS is written specifically for credit executives. Every situation which he can handle himself is covered, concisely but fully, and in language that can be understood by anyone.

Why go round in circles?

With the CREDIT MANUAL of COMMERCIAL LAWS on your desk you can feel safe! In a few moments you can find the direction you should take and go ahead without wasted time or effort. No matter what your problem is the CREDIT MANUAL of COMMERCIAL LAWS will point the way to the right answer.

The 1952 edition of THE CREDIT MANUAL of COMMERCIAL LAWS will come off the press in November but you can save 25% if you send in your order right away. The regular price is \$10.00. If you order now the price is only \$7.50. AND, if you send your check with order you receive **at once**, and at no extra cost, your copy of the invaluable booklet "Danger Signals Shown in Financial Statements." This booklet is yours, now, if you send your check at once. Why not do it right away while you are thinking about it? Send your order to

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acknowledgement of the trouble that led up to the formation of the committee. In other words, the facts must be faced and the management must be courageous enough to admit past mistakes, if they have been made, and start afresh.

Committee members

On the assumption that these various factors are admitted and management does recognize certain basic causes of their difficulties, and are determined to correct them, the next important thing to be done is the actual formation of a committee. A general meeting of all creditors should be called in some convenient location, and the management should make a frank and honest appraisal of the over-all situation. They should be prepared to convince the creditors that the formation of a committee is the logical answer to their problems. As you know, from your own experience, if either the creditors are reluctant to go along, or the company is reluctant to make necessary changes, there cannot possibly be a successful conclusion to the problems.

A great deal of care should be taken in the selection of a Committee. Quite naturally, it must be representative and the larger creditors should be members of the committee. The men selected should be men of broad experience. They should be men in whom the rest of the members of the committee, as well as all of the creditors and the management of the company, will have trust and confidence. They must be men with vision and with whom management can work and who will be in a position to devote sufficient time to the work of the committee so that they can render such counsel and assistance as the company may need. At least initially, they must be prepared to spend considerable time in getting the committee properly organized and functioning.

Once the committee has been selected, it should immediately be organized to the extent of having a permanent chairman, secretary and counsel. Our experience has shown us that there is a tremendous amount of detail work that the secretary of a creditors' committee must perform, and it is our belief that the man selected for this position should, if possible, represent a creditor or a group

of creditors. He should preferably be an attorney and both he and the counsel should be adequately compensated for the time devoted to their work.

Shall we go on?

The more time and care that can be taken immediately upon the formation of the committee, the more this will pay off in the months to come. Probably the biggest difference of opinion between the creditors and the management of the company will be about continuing of the business.

The creditors quite naturally are primarily concerned with assisting the management in the arrangement of its affairs to the end that they can be paid as promptly as possible. The management of the company also wants to accomplish this result, but in addition they have an obligation to the employees and the owners of the Company to so conduct the affairs of the company that the business can continue. In other words, the management is looking more to the future than the creditors are.

We believe you will find that in most instances the quickest and surest way for the creditors to be paid in full is by recognizing that the business must be continued and put on a firm foundation and conducted in such a manner that it will be profitable and in a position to pay off its liabilities. Therefore, both the creditors and the management actually have the same goal. Unless the men selected for the committee recognize this fact, then the result will probably be a liquidating proposition, with subsequent loss to everyone.

The basic agreement

The first step to be taken by the committee and the management is to draw up an agreement to be executed by the creditors and the company. While it is essential that such an agreement must cover the basic principles to be followed, it is also essential that the agreement be flexible enough so that the company will be able to operate as efficiently as possible.

We do not believe that such an agreement should attempt to go into too much detail or try to cover all of the matters that will come up during the life of the agreement.

Basically, of course, the purpose of the agreement is to give the company time to get its affairs in order and obtain the necessary funds to pay off its creditors. The creditors must, therefore, agree that they will stand by during the term of the agreement.

The length of time that the agreement is to run is important; this depends on the problems and the amount of claims of the creditors. The creditors must recognize that if the amounts of their claims are substantial there are no doubt conditions and problems which are going to take a considerable length of time to correct.

While, from the creditors standpoint, the agreement initially should not be executed for too long a period of time, say, six months, the committee should be empowered to extend the agreement by their own action. The reason I say that initially the agreement should not be for longer than six months is because it may become apparent after three or four months that the situation is hopeless and should not be continued. It will also have the effect of forcing immediate changes which are very essential. On the other hand, too short a period of duration of the agreement will not give the company, the employees or anyone else the necessary assurance that the committee is willing to go along with them for a long enough period of time to work out their problems. There must be some degree of confidence that if results are accomplished the company can expect to continue in business.

Committee powers

The agreement should set forth the powers that the committee will have. If the committee feels that changes in the management are essential the agreement should clearly set forth that the company will make such changes as may be suggested by the committee. We believe that in most instances, the creditors should select a man of outstanding ability, acceptable to the company, to be placed in an executive capacity. He would, in effect, work for the company as a representative of the creditors. If this is done, then the creditors should give such a man sufficient powers and leeway so that he will be free to act in the best in-

terest of the creditors, as well as the company.

It is essential, if the operation of a creditors' committee is to be successful, that the creditors have complete confidence and trust in the management of the company.

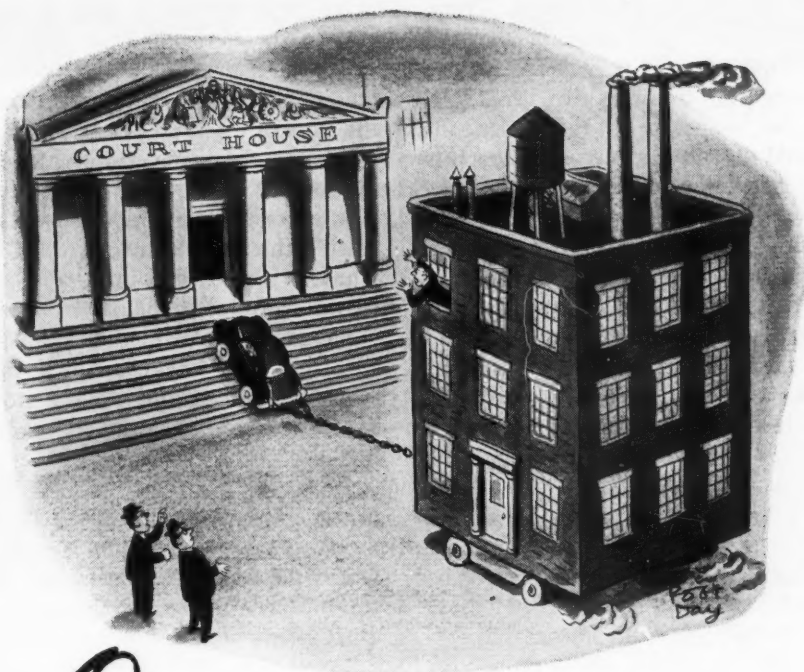
The agreement, should, of course, set out certain things that the company cannot do without the consent of the creditors, such as entering into long term contracts or other engagements not directly connected with its day to day business; the sale of assets; the right to borrow money, pledge property; etc. It should clearly state to what extent the creditors are willing to allow the company to incur additional obligations in the conduct of its business.

The agreement should contain a provision that when the creditors and the company mutually agree that funds are available, payments will be made to all creditors as often as possible. As you can appreciate, this is one point where it is often very difficult for the committee and the company to see eye to eye. Naturally, the creditors want all the money they can get as fast as they can get it. On the other hand, sufficient funds must be left in the company so that they can adequately carry on their business. Again, I say that the creditors and the company have a common goal, and if the committee is composed of men with broad experience and judgment this matter will be worked out mutually satisfactorily.

In a general way, the agreement should set out what the committee expects to receive in the way of reports, information, etc., from the company. It should also provide for one of their members or counsel to attend all board meetings of the company.

Execution of the agreement

Once the agreement has been drawn up and is satisfactory to the committee, and to the company, the secretary of the committee should then take such steps as are necessary to have it executed by all of the creditors, or at least the majority of them. Every effort should be made to have as many creditors as possible execute the agreement. In most cases, if the matter is properly explained to them, they will see that



Our salesman drove us into court!

(Based on Hartford Claim #16AL12350)

While driving his own car to the office from his round of calls one of our salesmen stopped off at his home where he picked up some guests to take them to a bus. On the way he struck a pedestrian who suffered severe fractures of both legs. The injured man sued both our salesman and us for \$25,000 damages.

Luckily, we have Hartford Non-Ownership Automobile Insurance. The Hartford handled everything and paid our share of the settlement—over \$2800.

• • •

Employers are exposed to accident claims and damage suits whenever automobiles are used in their business. As this actual case shows, this is true even of a car they do not own and when its use is not entirely in their interest. This risk is so great that Non-Ownership Automobile Insurance is essential to a well-rounded protection program.

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it is for their best interest. There will be some who will not sign the agreement but our experience has shown that creditors are very willing to cooperate if they are convinced of your sincerity. When this has been done, the agreement can then be declared effective and the company is in a position to continue its business and make such changes as must be made in an effort to clear up the problems which led to the formation of the committee. This of course, is really where the fun begins.

It is almost impossible to outline any general set of rules that should be followed by a company, because each company will have its own specific problems that must be faced. However, I believe that these are certain basic steps that have to be taken by any company in this condition.

The management of the company in cooperation with the creditors' committee must determine the basic line of products that the company is going to produce in the future. This will entail a complete survey of past performance and what can be expected in the years to come. If certain products are to be eliminated, steps should be taken as rapidly as possible to clear up that phase of the business. It probably cannot be done overnight and a long range plan of disposing of the completed products and the inventory must be developed. Where there has been an overexpansion of the company, not only in products but in physical property, steps should be taken to immediately consolidate all of the operations in one plant, if this is at all efficient. Any unused or unnecessary property should be disposed of at once.

Group interests

In the process of rebuilding the company, there are five or six distinct groups that must be recognized and dealt with individually. While in general, the same problems apply to all of these groups, each one of them has a different viewpoint and must be considered separately.

These groups are creditors, customers, employees, the sales organization (In some instances, this last group may be the same as the employee group, but in our own case our sales are handled by manufac-

turers' representatives, and as such they have a somewhat different viewpoint than employees.), vendors or suppliers (In most companies, the creditors and the suppliers would be the same group of companies. However, in our situation, this was not true because we had started the manufacture of a tractor which was entirely foreign to our normal products, namely, Federal Welders and Warco Presses. For that reason, I have classified them as a separate group.) and stockholders, if you have stock publicly held.

I have not mentioned these groups in the order of their importance, although I do believe that the order in which I did mention them has some significance, because, first of all, you must satisfy your creditors, you must sell your products to your customers, and you must have employees to do the job, etc.

Now, let's look at each group individually.

Creditors

The company must recognize that immediate steps have to be taken to convince all of its creditors that you have the ability to so conduct its business that it realizes cash to pay them as soon as possible. They must recognize that the only way this can be done is by manufacturing products on a profitable basis, as well as clearing up any other situations that need clearing up. The company must be prepared to spend as much time as is necessary with individual creditors, outlining the exact status of conditions and the steps that it intends to take to correct such conditions and to pay the creditors in a reasonable length of time.

Customers

It is only natural to expect that when a creditors' committee has been organized to assist the company in the solution of its problems its customers are bound to lose confidence in the company. Regardless of how long you have been selling your product, and particularly if your product involves a considerable outlay of money, any company is reluctant to enter orders for equipment and machinery that may take several months to build, unless they are convinced that the

company is going to be in a position not only to deliver the goods, but to stay in business and properly service their product and continue to manufacture it.

This is one of the biggest problems that confront any company working under the guidance of a creditors' committee. It requires a great deal of missionary work and it is necessary to constantly be in contact with your customers to let them know the progress that is being made. It is not something that you can do once and then forget. You must see that they are kept up to date and be willing to furnish them with such facts and figures as they may wish.

Employees

It is only natural that the employees of a company which is operating with a creditors' committee have, over the period of time that the conditions came about, lost confidence in their management. Their morale is at a very low ebb.

If a company is to be successful, it must, of course, have the complete cooperation and confidence of its employees. It is extremely difficult not only to keep your good employees, but to attract new ones that you may need. At the very time when you are trying to reduce your overhead, it is necessary to keep your employees satisfied and in these days of constantly increasing costs, you must meet the employees requirements in wages and salaries. On the other hand, if the employees recognize the fact that the creditors are willing to assist the management in working out their problems, then the employees must also be ready to cooperate and make some sacrifices.

In most companies there will be a union involved, and it is essential that management work very closely with their union committee. You must keep them abreast of the affairs of the company if you are to receive their utmost cooperation. Again, I would say, that we have found that if your employees are convinced of the sincerity of the management and their ability to accomplish the task facing them, they will cooperate 100 per cent, and be ready and willing to meet you half way.

I believe it is essential to have

periodic meetings of all employees and keep them fully informed. You must take into your confidence the department heads, supervisors, and foremen. Otherwise, they cannot be expected to appreciate the problems or to get across to the other employees the steps that have to be taken. While it may be necessary to make some changes in your organization, the fewer major changes that can be made, the quicker you can rebuild employee morale.

Sales organization

While the problems with your sales organization may be very similar to those of the employees, their viewpoint is somewhat different from that of your own employees, particularly, if, as in our case, you have manufacturer's representatives throughout the country.

You must work very closely with your sales representatives, so that they will know the exact condition of affairs and the steps being taken to overcome the problems. They are dealing directly with your customers and must be in a position to talk intelligently regarding the affairs of the company. They are also dealing directly with problems of credit and will have innumerable questions raised by their customers.

Vendors or suppliers

In order to continue manufacturing, you must be able to buy material to build your product. You should not expect, in fact you should not want, any credit extended to you from these vendors. You must be prepared to buy materials strictly on a cash basis on whatever terms the supplier may request. While your creditors may agree to permit you to incur obligations subsequent to the effective date of the agreement, we are firmly of the opinion that to the greatest extent possible all purchases should be for cash. In addition to not incurring any new liabilities, this practice will help build confidence in the eyes of your suppliers. In a great many cases your present suppliers will also be your creditors. Every effort should be made to buy your needed materials from those companies. They have agreed to extend the amounts you owe them and when you are

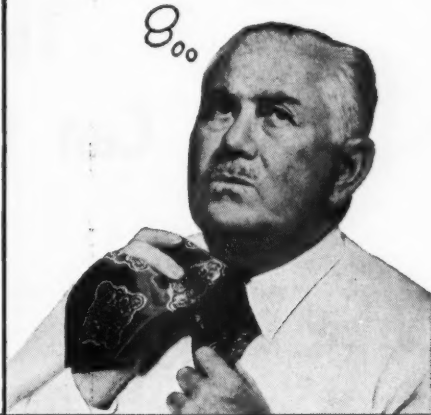
(Continued on page 39)

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The Price of Success Can Be the Loss of Credit

by F. M. NICODEMUS

Vice-President, Commercial Credit Company, Baltimore

CERTAINLY it is no reflection on a credit manager that one of his first steps in determining the justification for extending credit and the amount of credit to be extended to a particular prospect is to check the current asset position of that company. And again, that credit manager is simply following established practice when he considers a low ratio of current assets to current liabilities a danger signal.

And many companies today, particularly those established in recent years or operating in rapidly growing industries, are in just that position. Frequently, that is not because of bad management and rarely is it because of dishonesty. In the great majority of such cases, the company is simply suffering from growing pains. The inflation factor alone might have been enough to bring this about for it requires approximately twice as many dollars today to produce the same number of units as ten years ago. If the company started in recent years and particularly if it started with limited capital, the tax situation has not enabled it to keep enough out of profits to carry on plant expansion at a pace sales opportunities seem to justify.

Short of cash

Growing out of such conditions is a situation where many companies have dipped heavily into their operating cash to help pay for the extra plant equipment they needed. They are out of balance from the established formula of what is generally considered to be a good credit risk



F. M. Nicodemus has "lived with" accounts receivable financing for nearly forty years and has specialized in this one service since joining Commercial Credit in 1912, the year of its founding. In 1950 Commercial Credit handled a financing volume of more than \$2 billion.

—too heavy on fixed assets, too light on current assets.

What is the result? Frequently, they are slow paying because they are using the capital of companies from whom they buy to help finance their own inventory and receivables. There is no denying that some companies in this position have and will get into serious difficulty resulting in credit losses for their suppliers. On the other hand, the great majority in recent years have been able to carry on because of the rapidly expanding economy in which we have been living.

One solution

Is there a solution for these com-

panies who are obviously well managed, have products for which there is a demand and who have demonstrated their ability to compete with others in their industry? I am in a position to say definitely that there is in at least a representative number of cases. Currently, American manufacturers and wholesalers are using the commercial financing plan of the Commercial Credit Company at a rate of approximately half a billion dollars annually. The original function of the company when it was founded by Mr. A. E. Duncan thirty-eight years ago was to relieve tight working capital positions of manufacturers and wholesalers by enabling them to turn their accounts receivable into cash immediately.

Let me quote two examples of hundreds I am personally familiar with where our plan functioned quickly and effectively.

First is the Pennsylvania meat packing firm established over fifty-five years ago. Plant expansion and rehabilitation had reduced their working capital at a time when they had an opportunity to accept contracts which would keep the plant operating at capacity. They needed more cash to buy from suppliers and presented their case to their usual borrowing source. Eleven weeks went by without a decision and they knew they stood to lose substantial potential profits unless they got quick action. They presented their case to us; a complete financing program was worked out and \$600,000 was advanced.

In the year before using our plan, their sales were under \$6,000,000. In the year they started and

used our plan for six months, their sales went up to \$8,500,000. In the first full year of using our plan, their sales exceeded \$12,000,000. The net worth of this company after taxes increased during this period as did their working capital—and their credit rating.

\$35,000 to \$500,000

The other case is of a California company in the metal products industry. They started business in May, 1946, with limited capital and a small line of credit from a local source. After they had been operating for just about a year and selling at the rate of around \$35,000 a month, they entered into an agreement with my company as a means of securing enough funds to finance the rapid turnover of stock their growing sales opportunities called for.

In the first full year of working with us, their sales were at the rate of \$150,000 a month. In the fifth year of their business life and their fourth year of using our commercial financing plan, their sales were at the rate of half a million dollars a month. Just recently a letter from one of the principals of this company said in part, "There is no doubt in our minds that without your financing we could not have made such progress. You have helped us build a healthy business."

How it works

Now the natural question is, "How does the manufacturer go about turning his accounts receivable into cash immediately?" Under our commercial financing plan, the procedure is about as follows:

The manufacturer or wholesaler simply enters into an agreement to sell his accounts receivable to us. Let me point out right here that a company is not obligated to sell all of its receivables all of the time. It sells only the amount necessary to get cash it needs from time to time to operate efficiently. That can be a mighty important factor in money cost to a company doing a seasonal business or operating on a basis where practically all of its payments from customers are due on one day each month.

Having entered into an agreement
(Continued on page 40)



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Brief guide-lines to

Business Inventory Policy

by HERBERT SPERO, Ph.D.

Associate Professor of Economics, The City College of New York

WHAT inventory policy should business follow to avoid the financial strain of price wars and slow-moving goods? This question is now uppermost in the minds of producers and middlemen seeking to avoid a repetition of the recent price-cutting and an overloaded inventory position. The unbalanced inventory situation was pronounced in soft goods. While production of capital goods has been booming since the start of the Korean War, retail sales of consumer goods have lagged behind the growth of retail inventories; the net result, for one, is an overall increase of 33 per cent in department store stocks between May 1, 1950, and May 1, 1951, according to the Federal Reserve Board.

Arno Johnson, vice president of the J. Walter Thompson advertising agency has placed the major responsibility for the unsatisfactory inventory situation upon scare buying by the retailer, wholesaler, and manufacturer rather than the consumer. Although manufacturers, wholesalers and retailers added nearly \$16 billion to their stocks between June, 1950, and March, 1951, consumers were fear-ridden into purchases of only another \$1 billion of goods. Mr. Thompson strongly urged that "now, more than ever, we need continued and increased selling effort to maintain and expand further our high level of productivity. We have the ability to produce enough goods and services to supply over \$40 billion annually for defense and at the same time provide one-third more than in the pre-Korea year 1949 for advancing the real standard of living." (New York *World-Telegram and Sun*, June 29, 1951).

Mass market needed

Undoubtedly the American producer can satisfy the country's military requirements and the public desire for a rising living standard. But industry wants a mass market

for its output at profitable prices. Such a market can only be built up on real mass purchasing power.

What are the prospects for a high buying capacity in the near future? How will it measure up against productive power? International tension will still be with us notwithstanding any Korean cease-fire; the government will press for an intensification of its current production, price, and fiscal policies. Therefore the future market for American civilian output can be estimated in the light of consumer buying power experience over the past year and the industrial expansion program of the past twelve months.

Purchasing slump

The 1951 Survey of Consumer Finances prepared for the Federal Reserve Board shows that consumer purchasing power slumped as the nation prepared its military defense. While the dollar incomes of 25 million families advanced in 1950, only about one-half of these buying units found themselves with greater purchasing power. The price inflation absorbed more than the added money payments made to the other families. Between June, 1950, just before the outbreak of Korean hostilities and June, 1951, the cost of living increased to 170.2 from 148.6. During this same period 18 million families enjoyed no additional money income and ten million families suffered a decrease in their money earnings. Will this trend continue? If it does, where will the mass purchasing power be to take up inventories and promote further civilian production?

In addition, producers and middlemen must take account of proposed new taxes on the consumer which will also impair his purchasing power. Personal income tax rates will likely advance another 10 per cent for 1952; such an increase may even become effective October 1, 1951. Excise taxes will make a still further dent in free consumer dol-

lars. Taxes on appliances, automobiles, liquor, and cigarettes can only adversely affect the mass market for consumer goods. They should serve as a further warning sign to manufacturers and middlemen who contemplate building up their inventories in anticipation of the much heralded but yet unobserved marked expansion in public demand.

Public wary of buying

A further deflationary aspect of the current inventory problem is the buying hesitancy of the public. It is not convinced that an intensified inflation will accompany the planned expansion of the defense establishment. In fact, it is resisting the upward push of prices through buyers' strikes and the accumulation of savings. The Federal Reserve Board's Survey of Consumer Finances for 1951 shows that individual holdings of highly liquid assets like savings bonds and bank accounts reached a record \$140 billion and increased about \$7 billion between the end of 1949 and the close of 1950. The producer and middleman must remember that while this backlog of buying power can be a deflationary cushion, its distribution among family units does not augur well for a large mass market. Only 1 per cent of all liquid savings are owned by 26.5 million families while 5.3 million families control 65 per cent of such claims. Considering the shrinking real incomes for most people, and the imminent imposition of heavier personal taxes, the market for high priced goods appears limited and suggests a close watch on the accumulation of high priced, slow moving inventory.

Production capacity

What about the ability of business to turn out goods? Thus far we have dealt only with the demand side of the price picture.

The defense program has stimu-

lated an expansion in the nation's industrial capacity. The two major props of business activity today are military expenditures and private industry's expenditures for new plant and equipment. American business, notably the steel, aluminum, and power companies, is spending a record \$25 billion on expansion in 1951—\$5 billion above the previous 1948 high and 55 per cent more than was spent for this purpose.

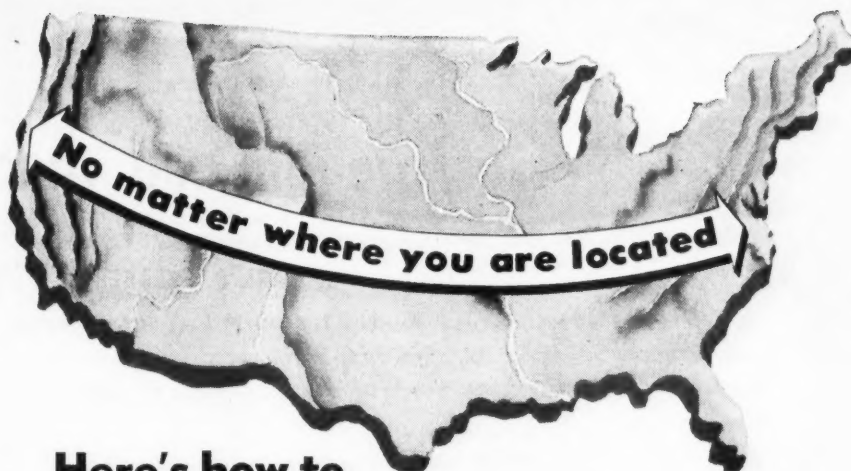
The government's policy of encouraging new industrial facilities through short-term depreciation permits has been a prime factor in productive growth. By the middle of June, 1951, Washington had approved quick write-off applications for new plant costing over \$7 billion; while applications for fast charge-offs totalling over \$13 billion are currently in process.

An end of the military emergency or a public psychological let down in defense production speed-up would leave us with a tremendously expanded productive organization and a curtailment of already inadequate purchasing power to drain away civilian inventories now in the hands of overstocked manufacturers and merchants. The only out for the businessman would then be a great expansion in public purchasing power through an internal public works and armament program coupled with a greatly augmented foreign assistance program.

Caution needed

In view of all these circumstances, a decline in real incomes, a rising tax burden, restrained and cautious buying, an inadequate backlog of savings or potential purchasing power in the hands of the average family, growing industrial potential capable of producing for both the civilian goods market and the defense organization, business inventory policy calls for extreme caution.

While the Administration warns of grave inflationary dangers, there are too many deflationary factors present to convince the nation of the reality of these threats to our economic liberty and solvency. Only a wide intensification of the struggle between East and West could make these risks appear imminent. Deflation would seem to be more in the cards than a rising price level.



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More on bad checks

by CARL B. EVERBERG

Assistant Professor of Law, Boston University

THE holder of a worthless check, by the improper action against the issuer of the check, can himself become subject to criminal prosecution. By the great weight of authority a creditor, if he obtains money from the drawer of the check by means of threats to accuse the latter of a crime, may be guilty of the obtaining of property by means of unlawful threats—extortion. And this is so even though he believes the debtor guilty of the crime which he threatens to expose.

In the case of *Commonwealth v. Coolidge*, 128 Mass. 55, the court said: "the law does not authorize the collection of just debts by the malicious threatening to accuse the debtor of a crime."

Even though the person threatened is guilty of the crime as to which he is threatened, the person making the threat is guilty. In *People v. Eichler*, x 26 N. Y. S. 998, the court said: "threatening a guilty person . . . is a greater wrong to the public than to threaten an innocent one, for the reason that the object is likely to be obtained, and the result is the concealment and compounding of felonies, to the injury of the state."

Nature of the crime

The crime of extortion is a statutory one generally, and its definition can be checked by looking at the statute in any given state. Sometimes this offense is designated "blackmail." The real meaning of "extort" is to take property from another unlawfully—to exact something wrongfully by threats or putting in fear. While the statutes usually require an intent (malicious)



on the part of the extorting person, the intent does not need to be proved independently because the act itself may infer the necessary intent.

It has been held that by a threat to accuse a thief, in case he does not return the property or its value, the crime of extortion has been committed. *State v. Bruce*, 24 Me. 71. The general rule has been laid down that a claim cannot be collected by threatening to accuse the debtor of a crime. In *State v. Richards*, 97 Wash. 587, 167 P. 47, the court said: "the law does not countenance forceful and unlawful collection even of just debts, and when one uses the methods set forth in this statute to obtain money or property, he commits the crime defined in the statute, irrespective of his belief that in so doing he is only attempting to obtain that which he is entitled to receive."

In *Cohen v. State*, 37 Tex. Cr. 118, 38 S. W. 1005, the court there said that one of the objects of the statute is to prevent persons from using the criminal laws to collect

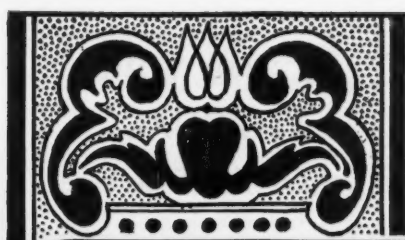
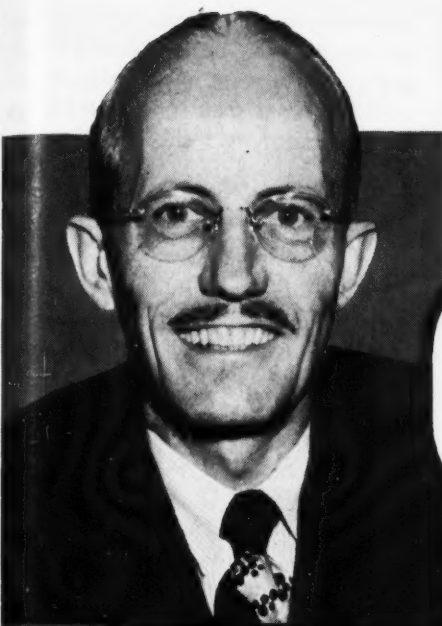
debts. The law objects to the means employed rather than to the legality of the end sought. In *People v. Beggs*, 178 Cal. 79, 172 P. 152, where an attorney stated to his client's employee that he might be sent to the state prison for taking merchandise from his employer, it was held to be extortion on the attorney's part where the employee drew a large sum of money and gave it to the attorney. The court added: "the law does not contemplate the use of criminal process as a means of collecting a debt."

A very small number of states do not embrace the above rules as to extortion with the same severity. Thus, where the threat is merely to obtain or to secure the repayment of money or property due the one making the threat, it is held not to come under the extortion statute, especially where there is no malice. *O'Neil v. State*, 237 Wis. 391, 296 N. W. 96; *State v. Hammond*, 80 Ind. 80; *State v. Ricks*, 108 Miss. 7, 66 So. 281.

Malicious prosecution

If the holder of a worthless check does not expose himself to the possibility of criminal liability by making a threat to accuse the issuer of a crime, he may walk into another pitfall—that of becoming liable in damages for maliciously prosecuting the drawer. Instead of threatening to prosecute, he proceeds to prosecute in the usual manner—swearing out a complaint in the criminal court or otherwise. This involves usually an arrest of the accused and, later, a trial.

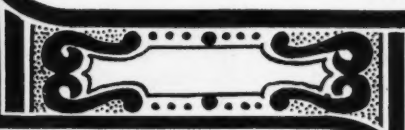
This is the third of a series of three articles on bad checks.



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Liability arises in this connection when a criminal proceeding (or it may even be under some circumstances a civil suit) is commenced or carried on without "probable cause" and with malice, and which terminates unsuccessfully. See 54 C. J. S. p. 951.

While an action will be sustained if all these proper elements are present, it is known that the courts do not favor actions for malicious prosecution; this is because public policy favors prosecutions where crimes have been committed and it desires to protect one who causes prosecution of another in good faith and on reasonable grounds.

Elements of the tort

In an old Massachusetts case, *Cloon v. Gerry*, 13 Gray (Mass.) 201, the court draws a brief but striking word-picture of the elements of the tort, known as malicious prosecution, and of the reasons it is not encouraged by the courts.

Shaw, C. J.

"In an action for the malicious prosecution against one, in the name of the Commonwealth, the averment on the part of the plaintiff, that the complaint was made without reasonable cause, lies at the foundation of the suit; and although it is in form of a negative proposition, it is incumbent on the plaintiff to establish it by satisfactory proof. This kind of suit, by which the complainant in a criminal prosecution is made liable to an action for damages, at the suit of the person complained of, is not to be favored; it has a tendency to deter men who know of breaches of the law, from prosecuting offenders, thereby endangering the order and peace of the community. Absence of probable cause is essential; from want of probable cause, malice may be inferred; but from malice, even if express, want of probable cause cannot be inferred.

"An ultimate acquittal of the offense charged, though necessary to be proved, is but a short step towards the maintenance of an action for malicious prosecution. Malice, and absence of any reasonable and probable cause, must also concur with an acquittal."

Circumstances that decide

The plaintiff had been convicted by a justice of the peace (who then had jurisdiction over certain crimes) and the court held that this was proof that the prosecution was not groundless, and that the conviction was proof of probable cause.

On the other hand acquittal of a

ATTEND YOUR REGIONAL CONFERENCE

charge is not of itself evidence of want of probable cause. *Laing v. Mitten*, 185 Mass. 233, 70 N. E. 128.

And where a party in doubt as to his rights consults legal counsel and does not withhold any information with intent to protect him against a suit, and pursues the course pointed out by counsel, he is held not liable for malicious prosecution. *Boylan v. Tracy*, 254 Mass. 105, 149 N. E. 674.

Where one calls a police inspector in the belief that a crime has been committed and states material facts to him without any concealment, but does not direct him to commence a prosecution, he is held not liable for malicious prosecution for the act of the officer instituting criminal proceedings. *Burnham v. Collateral Loan Co.*, 179 Mass. 268, 60 N. E. 617. On the other hand it is not a defense that a chief of police swore to the complaint, where he was induced to do so by defendant and in doing so he acted on defendant's information. *Tangney v. Sullivan*, 163 Mass. 166, 39 N. E. 799.

Probable cause, in criminal prosecution, is defined as reasonable grounds for suspicion, supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that accused is guilty of the offense with which he is charged.

What does a layman do?

The methods of originating criminal process differ somewhat throughout the states. Whether a layman should take the responsibility for instituting criminal proceedings, following receipt of a worthless check, is a question difficult to advise upon. In many of the states, as has been pointed out, the issuer of a bad check is entitled to a certain number of prescribed days' notice. Should a holder of a bad check, in ignorance of such provision, proceed to have the drawer prosecuted without having complied with the statute with

reference to giving him the statutory notice, it might be deemed to be an ingredient of want of probable cause.

It has been seen how many ways an issuer of a bad check can be exonerated. In many of the states it is necessary to show that money or property have been obtained. On the whole, in view of these many ramifications, the ambiguities in the law, it would seem to be the wisest course to turn these bad checks over to legal counsel where criminal proceedings are desired. It might be added here, that all that is necessary in many instances is to notify the drawer of the check that it was returned for insufficient funds, and the drawer in question makes good without further action.

Interstate cases

One final point has not been canvassed in these articles. That is the question as to whether a creditor receiving a worthless check in one state from a drawer located in another state, drawn upon a bank in that other state, has the same rights of criminal prosecution as if all the parties were in the same state. There is a dearth of decisions on this question. In Arkansas it would appear that it makes a difference whether the prosecution is under the statute or under common law (false pretense). *Cousins v. State*, 202 Ark. 500, 151 S. W. 2d 658; *Hadley v. State*, 196 Ark. 307, 117 S. W. 2d 312. The legal difficulties which would be encountered in such a situation as mentioned in this paragraph—the problem of the place of the crime, the reaching out of the law across state borders, etc.—would be formidable. Prevention of such occurrence is in the hands of the credit man.

Perhaps one reason there are not many cases on this point is that credit men have been wary of shipping goods to out-of-state customers until checks purporting to be in payment of cash sales have definitely cleared. Indeed, the prophylactic treatment in all these matters of taking checks in cash sales is far the better one. It is infinitely better to have the prospective customer "cool his heels" while his check is going through the clearing process than for the credit man to wear his heels down pacing the floor wondering what to do with the impostor.

Efficiency TIPS

The following literature will be of special interest to executives. Unless otherwise stated, it will be furnished on request to either company, or Editor of CREDIT and FINANCIAL MANAGEMENT.

142. American Photocopy Equipment Co. will send you an illustrated booklet with details on how to streamline office copying jobs and cut cost.

143. Jasper Office Furniture Co. offers a booklet entitled "Lower Office Costs" on request.

144. Autopoint Company's booklet, "Autopoint Business Gifts," shows how to put to work for you a tested business strategy that builds good will and increases sales profitably.

145. Royal Typewriter Company will send you their brochure, "Picture of Progress," describing their new electric typewriters, if interested.

146. Standard Register Company has a magazine, "PS," sent free on request, giving usable ideas and paperwork simplification cases.

147. Webster-Chicago has a fully illustrated folder describing their "Electronic Memory" wire-recorder dictating machine.

148. American Lithofold Company has a brochure they'll be glad to send you on "How to Get Better Results—in Less Time and at Lower Cost—Through Up-to-date Business Methods."

149. Chicago Printed String Company suggests you write for their free booklet and specific information on the use of industrial tape in industry.

150. Do-More Chair Company offers a booklet, "Proper Seating is a Specialty," explaining just why proper seating is a good investment for the entire office staff, and how it can effect savings in time and money.

151. E. F. Hauserman Co. has a free booklet, "The Inside Story of Building Economy," covering mov-

able steel interiors for partitions in office and factory. Write for it if you are considering remodeling or expanding.

152. Recording and Statistical Corporation will send you "Modern Payroll Service" brochure based on lower payroll production costs.

153. Diebold, Inc., will send you their booklet, "New Light on Your Oldest Office Problem"—a light-line study that will show you how to get the most for your dollar in your office. A Motion Study.

RFC Announces Rules for Flood Disaster Loans

The Reconstruction Finance Corporation announced early in August how disaster loans in the flood areas of Kansas, Missouri and Oklahoma may be processed.

Local banks have been authorized to receive and process applications for disaster loans up to and including \$5,000. Such loans must also receive the approval of the RFC.

W. Stuart Symington, administrator of the RFC, gives the following information as to how applications for disaster loans should be made:

Loans Up to and Including \$5,000.—Application can be made at any bank in the flood area. The emergency branch office in the locality has authority to make the loan.

Loans From \$5,000 to \$20,000.—Applications should be made through the emergency branch office in the locality. These loans may be approved by the managers of the RFC loan agencies in Kansas City, St. Louis or Oklahoma City.

Loans From \$20,000 to \$50,000.—Applications should be made through the emergency branch office in the locality. These loans may be approved by the RFC agency managers in Kansas City, St. Louis or Oklahoma City, with the concurrence of the RFC advisory committee in the area.

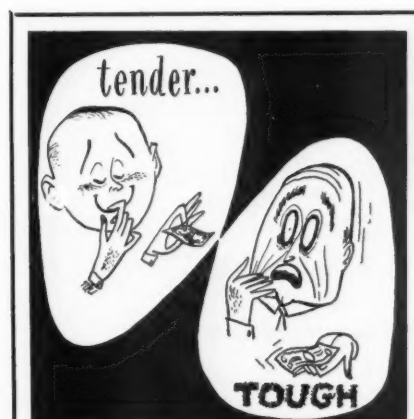
Loans Over \$50,000.—Applications can be made in the local emergency branch office. Final approval for these loans must come from Washington.

NACA Booklet Emphasizes Need For Cost Study

MANAGEMENT must know profit margins realized on individual products in selecting products to sell, setting sales prices and deciding how much can be spent profitably for advertising and selling, according to a research study made public by the National Association of Cost Accountants.

The study, entitled "The Assignment of Nonmanufacturing Costs to Products," is based on an analysis of the techniques used by 70 major companies to obtain product costs. The report revealed that multiproduct companies usually encounter difficult problems in obtaining separate costs for their products.

Copies of Research Series No. 20—"The Assignment of Nonmanufacturing Costs to Products," are available from N.A.C.A., 505 Park Avenue, New York 22, at 75¢ per copy for nonmembers.



2 collection series . . . one TENDERly diplomatic — the other TOUGH . . . that persuade overdue accounts to pay.

Result of 2 years testing at a top department store and a famous credit retailer.

ON STICKERS can be used on anything

& ON COLLECTO-CARDS simply fill in data and mail in window envelope

One of these series will collect for you. SEND TODAY for samples.

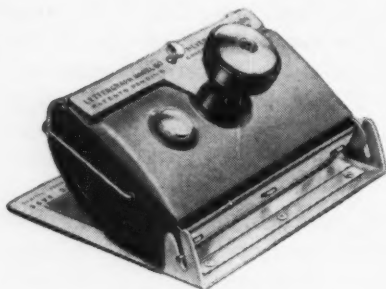
Cartoon Collections

2547 Fourth, San Diego 3, Calif.

In the MODERN office

Desk-size "Direct Mail Department"

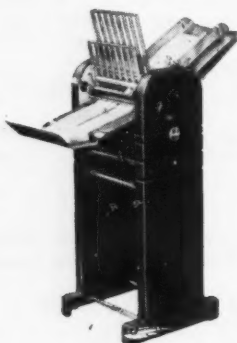
The combination "Dupli-Kit", manufactured by The Heyer Corporation, 1850 S. Kostner Avenue, Chicago, provides for the home or office a compact, simple means of printing or addressing at very little



cost. The Portable Printer performs many small duplicating jobs—advertising postcards, inventory and record cards, notices, envelope stuffers, price tags and cards. Patented base with Tru-Line Guide assures perfect printing. Uses stencil on which message is typed, written or drawn. The Portable Addresser loads and handles like a camera. Spirit fluid is applied and address rolled on in one smooth motion. Accommodates 250 addresses on single, changeable paper roll. Easy to fill wick cartridge holds enough fluid for full run. Each address good for 100 impressions. Complete kit sells for approximately \$20.00.

Folding Made Easy

Form letters, statements, sales bulletins, price lists, announcements, advertising literature, all have to be folded before they can be mailed.



Usually a number of employees taken from regular duties do this chore, and folding by hand can become rather expensive. Davidson Corporation, 1020 W. Adams St., Chicago, have an Office Folding Machine which, they claim, will cut this time and expense to a minimum. The machine is exceedingly simple and designed for easy operation. The few adjustments can be easily made by the operator. Will fold any size sheet from 3" x 3" to 10" x 14", including stapled sheets of varying thickness. Will fold from 6,500 to 20,000 sheets per hour, depending on size sheet. Motor driven and equipped with automatic feed and load may be replenished without interrupting operation. Available either with, or without the stand.

Marchant Improvements

These important new features are latest improvements being offered by Marchant Calculating Machine



Company . . instant automatic lineup in division, flexible keylock and optional carriage shift. Calculator lines up dividend and divisor automatically and begins division with one stroke of lineup key. Accuracy insured by automatic point-off of decimal, which gives either decimal or percentage. Versatile keylock feature, in addition to the usual function of retaining a keyboard constant, also permits a separate keyboard entry for operators such as accumulating multipliers with dial-proof of each. Optional carriage

shift permits multiplication "from the right" as well as "from the left." Address, Oakland 8, California, for more details.

New Design Scale

An example of how a designer helped solve the steel shortage is seen in the scales manufactured by



Pelouze Manufacturing Co., 1218 Chicago Avenue, Evanston, Illinois. Parts in the scale were reduced from 42 to 29, without impairing efficiency, and the overall weight to 3 1/4 pounds. The new postal scale features a slender red pointer which prevails behind the figures on the dial increasing visibility and accuracy in weighing, as well as cutting weighing time to a split second. Easy to read table shows parcel post rates tabulated by zones, with replaceable dial if any changes in postal rates. Available in four different weighing capacities, 5, 10, 25, and 50 pounds, with the overall size the same in every case. Housing of scale in colorful plastic.

FIRE PREVENTION WEEK, OCTOBER 7-13

Look out for special articles on fire prevention and insurance in next month's issue.

When writing to these manufacturers, tell them you saw it in Credit and Financial Management

Think Twice Before Starting Your Own Small Business

A CAREER in top management of a large corporation does not always mean that the individual so experienced is qualified to manage a smaller business of his own. Caution to this effect was sounded by Walter Mitchell, Jr., managing director of the Controllers Institute, who recently observed to the members of that organization. "There can be such a thing as transplanting a big business executive into the wrong kind of soil."

Recognizing the urge on the part of controllers and other salaried executives to form their own enterprises and accumulate an estate through building up a capital investment, Mr. Mitchell added, "There may be a hitch to it. One executive who had spent his business life moving steadily upward through a large manufacturing organization bought a half interest in a small concern. His experience appeared ideal, because he had worked in every department and phase of his organization. Yet it didn't work out. As one of his banker friends put it, 'his thinking was in terms of departments, while a single individual does the job in a shop of this size.'

No straw-boss

"Another executive bought a partnership in a wholesale firm. He had come up through the selling, promotion and advertising phases of a large company, and apparently brought to his new enterprise exactly the experience it needed, because all the latter needed was to have its sales improved. But two years later the sales expert returned to his big-company job, after losing most of his investment. This man had proved his ability to handle a multi-million dollar advertising appropriation and a sales force of 200, scattered through 30 branch offices—but he didn't know the 'straw boss' job of keeping eight salesmen on the road and producing."

Mr. Mitchell's message is a feature of the July issue of "The Controller," official publication of the Institute.

KEEPING INFORMED

Informative reports, pamphlets, circulars, etc. which may be of interest to you. Please write directly to the publisher for them. **CREDIT AND FINANCIAL MANAGEMENT** does not have copies available.

Some of the worst losses business men suffer are a result of accepting bad checks. Six methods are presented to help determine whether a check is forged. Blots, blurs, erasures, and differing inks give clues to a forgery. 6 Easy Ways to Recognize A Bad Check—Write Fraud Detection and Prevention Bureau, 2515 W. 82nd St., Chicago 29, Ill. Price: 25 cents.

Warehousing

A list of trade associations, business papers, magazines and business directories dealing with warehousing problems. The use of warehouse receipts as collateral, effective use of warehouses, reading material on cold storage holdings are all covered in this four page booklet. Write Office of Industry and Commerce, U.S. Department of Commerce, Washington 25, D.C. Free.

Operating Instructions For Bankruptcy

Instructions are designed to afford the lay personnel a guide for handling cases in bankruptcy. Covers all phases from steps in voluntary bankruptcy to how to file claims, as well as when and when not to accept payments from a bankrupt. Prepared by Law Committee of the National Consumer Finance Association, 315 Bowen Bldg., Washington, D.C. 22 pp. Price: 50 cents.

Selling to the Armed Forces

Alphabetical listing of major articles being purchased by military services and the purchasing offices. Geographical guide to major purchasing offices as well. Report included "How to Get Military Business" explains procedure to be followed in establishing and maintaining contact with buying offices; negotiating; renegotiating and financing contracts; obtaining subcontracts; selling services, etc. Write to Hugh Smith, Director of Public Relations, Research Institute of America, Inc. 292 Madison Ave., New York 17, N.Y. 34 pages. Free.

William C. Bruhn

William C. Bruhn, assistant cashier in charge of the credit department of the First National Bank of Chicago, and only recently elected treasurer of the Chicago Association of Credit Men, passed away at his home July 24 of a sudden heart attack. He went to work for the First National on April 23, 1909, as a page boy and has remained with that bank since that time in the credit department with the exception of a few years in the statistical department.

Mr. Bruhn had been very active in the Chicago Association for many years. He was a member of the board of directors from 1947 through 1950, a member of the executive committee in 1949, chairman of the credit groups committee in 1949-1950, a member of the adjustment committee, and at the time of his death was treasurer of the Association and a member of the executive and finance committees. He was a constant attendant at the annual NACM Credit Congresses including the last one at Boston.

For many years Mr. Bruhn had been very active in the Chicago chapter of the Robert Morris Associates, serving as president, a member of the board of governors and on the advisory committee.

The Banker Wasn't Looking!

Burlington, Iowa: Here is one for the record. Carl Dwight, of Schramm & Schmieg Co., wrote a letter to a customer suggesting that now was the time for all good customers to come to the decision to pay up. A few days later he received a draft with a pithy letter: "Dear Mr. Dwight: I am enclosing a draft for your account. I borrowed it from my banker who hasn't found out yet that business is lousy."



Fifth Session of Graduate School Closes at Dartmouth College

Hanover, N. H.: 151 men and women, young and not so young, representing companies large and small from cities and towns near and far, have just had an experience they will never forget.

Some of them will be back next year, more of them will be returning for two more years and the others have completed three years of training, have received their diplomas and can look back on three short but exciting summer meetings with a feeling of real satisfaction.

The fifth annual session of the Graduate School of Credit and Financial Management came to a close August 18. Held again at Dartmouth College, with the full and hearty cooperation and collaboration of the college's Amos Tuck School of Business Administration, the session was noteworthy for many reasons.

For one thing, the enrolment was the highest ever. In fact, the freshman class was larger than the entire student enrolment in 1947 when the school was founded. Also, there were many changes made in curriculum, schedule and so forth, and they were all successful.

How it started

Back in 1941, the National Association of Credit Men, in cooperation with the Babson Institute in Wellesley, Mass., held a "Summer Institute" of credit which was a great success. The experiment was repeated in 1942 but the war made it impossible to continue the summer institutes as a permanent part of the NACM educational program.

The president of Babson Institute in those days was one Dr. Carl D. Smith. In 1945 Dr. Smith was appointed director of education of the National Association of Credit Men, and, as soon as the war was definitely over, he set about reviving the

summer institutes but not on a year to year basis as they had been, but rather as a planned, three-year course on a graduate level.

The result was the founding in 1947 of the Executives' School of Credit and Financial Management, now the Graduate School. It was held at the University of Wisconsin in 1947, 1948 and 1949 and was transferred to Dartmouth in 1950.

The past four years have been years of growth and evolution for the school. Through the combination of a fine faculty, a hard-working administrative committee and a loyal and interested body of alumni the school has, in that short space of time, carved for itself a very real niche in field of business education.

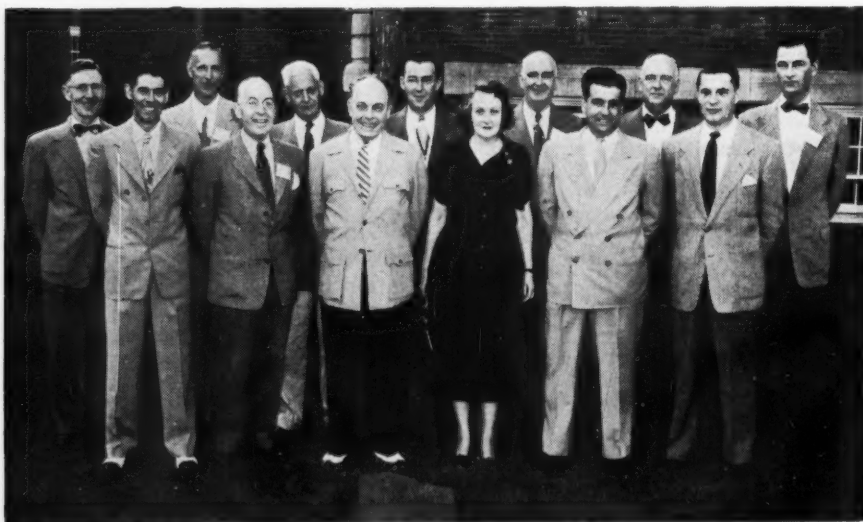
Enough of history, however; to return to the 1951 session.

A student's day

A visitor to the school is impressed first by the whole atmosphere of Dartmouth and the school itself. It is an atmosphere in which the most boisterous extrovert can become a contemplative scholar. In short, from the school's point of view Dartmouth is a "natural."

One is impressed also by the real industry displayed by the students. They are there to do a job of work; it is work that is going to be a grand springboard for them as they move up top. And they know it. And they are doing something about it. (Some of them, incidentally, have already reached top and they are the most enthusiastic of all!)

A day in the life of a student runs something like this:



The senior class pictured on the opening day of school. Left to right (back row): F. James Keane, assistant secretary-treasurer, The Product Machine Co., Bridgeport, Conn.; Earl F. Schultz, assistant credit manager, Rath Packing Co., Waterloo, Iowa; Preston D. Mitchell, credit manager, Bigelow-Sanford Carpet Co., New York; Thomas S. Rose, credit manager, Sealed Power Corp., Muskegon, Mich.; William M. Mill, president and general manager, Thomas Smith Co., Worcester, Mass.; Robert E. Routson, assistant cashier, Winters National Bank & Trust Co., Dayton, Ohio; Donald R. Whyte, treasurer, The Mau-Sherwood Supply Co., Cleveland, Ohio. (Front row): Robert Brierley, assistant credit manager, Shamrock Oil & Gas Corp., Amarillo, Texas; Edmund E. Carney, credit representative, United States Steel Co., Pittsburgh, Pa.; Harry J. Weihrauch, credit manager, Rockwell Mfg. Co., Pittsburgh, Pa.; Minnie M. Schwab, secretary, Phillips-Lester Mfg. Co. Inc., Birmingham, Ala.; Paul A. Farina, assistant credit manager, Proie Bros. Co., Pittsburgh, Pa.; Melvin M. Nield, credit manager, Marathon Corp., Menasha, Wis.

6 a.m. Arise and shine, a matter of some misgiving to some who like their sleep and to others who have been sitting up until one in the morning chewing over tomorrow's assignments. But it's cheerful misgiving, and it doesn't impress the visitor who has to ride forty miles into New York five days a week.

7 a.m. Breakfast at the Hanover Inn. This is where the students take all their meals. It is about five minutes' walk from the classrooms.

7.45 a.m. Classes start. There are four classes each morning, each lasting an hour and ten minutes. There is a short break between classes and a twenty minute recess in mid-morning when coffee and doughnuts are served.

Classes, then, take care of the morning. After lunch, time is set aside for special seminars, committee work sessions, conferences or recreation. Two evenings each week the entire group meets in the Tuck Hall auditorium for lectures or panel discussions by visiting guests or faculty members.

Classroom technique

Your visitor, particularly if he has teaching experience himself, is impressed also by the way in which the classes are conducted. The instructor tosses out the ball which is caught by a young man in the far corner who tosses it to an elderly gentleman on the front row who again passes it across the room to another young man and so on until



Students relax during the morning coffee period in one of Dartmouth's dining halls.

it is finally thrown back to the instructor. By the time the question has been bandied about in this manner and fat stripped off, the problem has reduced itself to essentials and the answer has been found.

In other words when the instructor asks a question he expects an answer based on the listener's experience, or at least a reasonable conjecture based on that experience. That your visiting ex-teacher likes, for when you are dealing with the immature (of all ages) you can expect an answer based only on what was heard or read in a textbook last

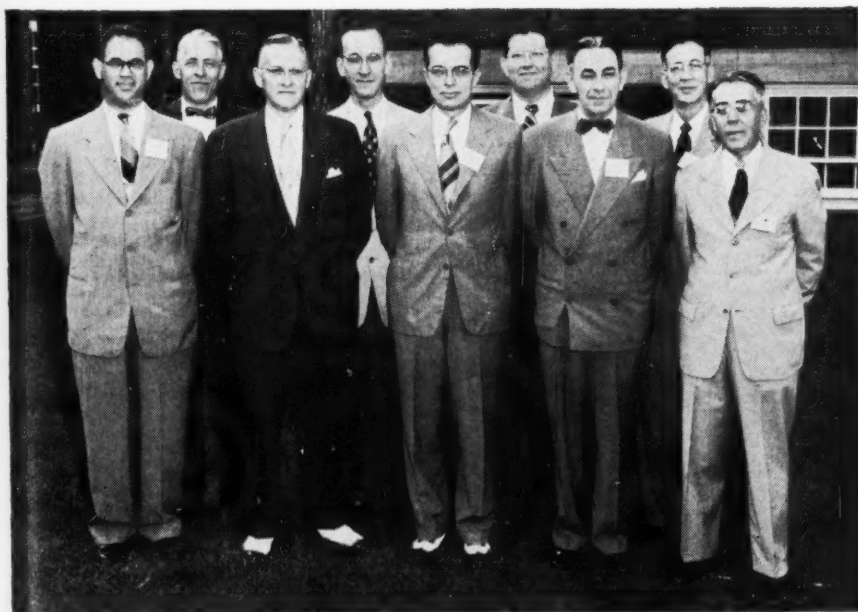
week or last month or last year. The immature student has no experience to draw on. He has to be led. These students are steered.

That is one reason why this school rightly claims to be a *graduate* school and why experience is so strongly emphasized when applications are passed on.

The what and the who

As for the curriculum; the first and second year courses are based on four subjects each; in the first year the subjects are problems in credit management, problems in financial management, management policy and the development of executive abilities; in the second year problems in credit management, problems in financial management, development of executive abilities and the economics of money and credit. The third year students attend classes in the development of executive leadership and economics and business conditions. The rest of their time is spent on a credit and financial seminar, a sort of general summation of all their experience, all they know and all they have learned, and want to find out.

The faculty has grown with the school and now numbers eleven, in fact twelve if you include Henry Heimann, NACM executive manager, who spends one week each year at the school to talk to and counsel with the students. Dr. Carl



Here is the teaching staff of the school. Left to right messrs. Upgren, Greenleaf, Rodgers and Bradshaw (back row), Vogel, Nelson, Griswold, Thevenet and Foster (front row).

D. Smith is again executive director. His assistant is Orrin E. Barnum, credit manager, U. S. Steel Co., and a member of the school's first graduating class.

The rest of the faculty is of the same high calibre as in previous years and includes one man who has been with the school since its inception and several who are new this year. The comparative old-timer is Thomas H. Nelson, president of Executive Training, Inc., and partner in Rogers, Slade & Hill, management consultants, and the new men are John H. Vogel, vice-president of Meinhard, Greeff & Co., also a member of the first graduating class, and Dr. Francis Bradshaw, president of Richardson, Bellows, Henry & Co., Inc.

The other faculty members are Dr. Louis O. Foster, professor of accounting at Dartmouth and a consultant to the U. S. Atomic Commission; Dr. John Griswold, professor of finance at Dartmouth; Robert K. Greenleaf, of the personnel staff of the American Telephone & Telegraph Co.; Raymond Rodgers, professor of banking at New York University; Dr. Arthur R. Uppgren, professor of economics at the University of Minnesota and associate editor of the Minneapolis *Star-Journal*, and Arthur Thevenet, secretary of the National Credit Office, New York.

Each morning during breakfast the students receive "The Beam", the daily mimeographed newsheet edited, published and written by "Barney" Barnum, the school's assistant director. In it they find news of interesting places to visit, reminders of appointments they might have forgotten, announcements of forthcoming events, social and official, and so forth. Such delicate little items such as the story of the gent who packed in a hurry and arrived with one pair of socks which he stands up beside his shoes each night are used for fillers.

Socially it's every man for himself since there is not too much time for social events anyhow. One feature of the session, however, is the trip up to the Outing Club's Ravine Lodge on the one weekend that the students have together. Here (and the price is thrown in with the regular tuition and lodging fee) the students can lounge about in old clothes, go mountain-climbing, sing

songs and generally relax. It is an excellent opportunity to clear the air and forget work.

Think!

Getting back to the school's program, in summary, perhaps the best description of what the school does is to say that it teaches men how to think. Note that. It doesn't teach them to think. They have been doing that for years or they would not be where they are. But it does teach them to systematize their thinking, to cut corners, to eliminate waste cerebration, to decide what they are aiming at and to reach it in the most economical way. Too, they learn to view the business picture as a whole; to see how every part of it is integrated with the others. And, best of all, they have a chance to pick each other's brains. Thirty men with one original idea each become thirty men with thirty new ideas each.

What school can do more?

Fair Trade Case In New Jersey Thought Unique

IN what is believed to be the first action of its kind involving sales of brand name merchandise in interstate commerce since the Supreme Court's fair trade decision, Johnson & Johnson and McKesson & Robbins, Inc., national drug manufacturers and wholesalers, respectively, have sued to enjoin a Newark, N. J. retailer from selling Johnson & Johnson products below published minimum fair trade prices.

The suit, brought jointly in Supreme Court, Chancery Division, against Charmley Drug Co. of 164 Halsey Street, Newark, N. J. was based on an "invoice legend" by which McKesson & Robbins, under an agreement with Johnson & Johnson, obligated this retailer to maintain fair trade prices on the J & J products purchased by it.

The defendant, according to the complaint, indicated that it would not adhere to the requirements of the fair trade legend agreement contained on the invoices which accompanied the merchandise received by it, and gave notice that it would not abide by the minimum fair trade

resale prices as established by Johnson & Johnson.

In addition to seeking an injunction to prevent resales at less than minimum fair trade prices, the Court was asked to enter a declaratory judgment affirming, among other things, the validity of the invoice legend as a legal fair trade contract binding on the retailer.

The action, it is understood, raises the question of whether the acceptance of goods with an invoice containing an agreement not to resell below fair trade prices, is legal under the New Jersey Fair Trade Act and the Supreme Court's decision in the Schwegmann Case.

The legend used by McKesson & Robbins, by direction of the manufacturer, contained on invoices covering Johnson & Johnson products, was as follows:

"FAIR TRADE AGREEMENT. Purchaser, by accepting delivery from Seller of any fair traded commodity, agrees not to resell such commodity, by direct or indirect means, at less than the prescribed net retail minimum price published by the Producer or Distributor whose trade-mark, brand or name appears on the commodity. This agreement not applicable to sales in non-fair trade states or District of Columbia."

Considerable significance is attached to the action. McKesson & Robbins is using the invoice legend principle to make fair trade agreements with its retail customers on behalf of other manufacturers desiring to protect their brand name merchandise under fair trade in both intrastate and interstate sales. Johnson & Johnson believe that this procedure, if approved, should effectively restore the fair trade even though further legislation be not enacted.

Defense Effort Discussed

Cincinnati: Wilbur Fulton, vice president of the Federal Reserve Bank of Cincinnati, was the principal speaker at a meeting of the Credit Club of the Cincinnati Association of Credit Men, held at the Hotel Sinton July 24. His subject was "Growing Effect of The Defense Effort on Our Economy."

Ohio Valley Conference To Be Held in Cleveland

Cleveland: Plans are being perfected for the Ohio Valley Regional Credit Conference which this year will take place at the Carter Hotel October 19 and 20.

ASSOCIATION NEWS

Fraud Prevention Department Head Retires

C. J. Scully was Responsible for 1719 Convictions

Charlie Scully retired August 31. If you happen to be in the fraudulent bankruptcy business that will be good news.

Charles J. Scully has been director of the NACM's Fraud Prevention Department for more than 25 years. During that time the department has investigated more than 4,000 cases of suspected fraud and has accounted for 1719 convictions of individuals guilty of commercial crimes.

Before joining the National staff the Chief was for seventeen years an agent for the Bureau of Investigation of the U. S. Department of Justice, now known as the FBI. He was in charge of the radical division and caused the arrest and deportation of many notorious anarchists and "reds" including Emma Goldman and Alexander Berkman, who with hundreds of others were deported to Russia. He also apprehended David Lamar, known as the "Wolf of Wall Street", who was being sought throughout the United States. He figured prominently in the case of the dynamiters who were destroying buildings in many large cities.

He also devoted much time to the investigation of persons involved in violations of the Espionage Act, particularly in keeping track of Franz von Papen and other high German officials who, before World War I, were engaged in and directing espionage work in the United States.

Mr. Scully says he is going to "attend some of the ball games in which the Dodgers participate and also to try his hand at fishing." The good wishes of everyone who ever met him go with him.

Tribute from Heimann

Commenting on Mr. Scully's conduct of the Fraud Prevention Department, Henry H. Heimann, NACM executive manager, writes:

"The man who more than anyone else in the United States put the fear of God into credit crooks, namely, Charles Scully, is retiring. He leaves behind him a record of accomplishment seldom equalled in commercial history. Not only



has he been a loyal and faithful employee of the National for all these years but it is no exaggeration to say that through his effort he has saved millions of dollars for American business.

"Any credit crook in the world knows Charlie Scully. He respects him and he fears him. Always fair in his dealings but demanding of those he investigated a sense

of honesty. Charlie has done an outstanding job in the nation. Before coming to us Charlie was associated with the F. B. I. In this connection he was quite active in the Wall Street Bombing case and in the Communist activities in the Sand Dunes of Michigan. For your information, a judge in my county who be-

(Next page, column one)

C. J. Scully

(Continued from previous page)

came famous over these trials has time and again personally complimented Charlie to me. Also you will be interested in knowing that this judge who comes to New York occasionally never drops in but he has lunch with Charlie Scully.

"Suitable recognition of Charlie's service will be given by way of a testimonial dinner but this will be reserved for a later time when more of his friends will be in the city.

"During his tenure as chief of the Fraud Prevention Department 1719 convictions have been secured. In other words, his department has been almost wholly responsible for the gathering of evidence for presentation to the courts in these cases. He has at all times had the full cooperation of the prosecuting authorities.

"Charlie Scully's life in this work is worthy of a book, let alone a few words of commendation such as are being written here. He has literally lived and breathed this work for he has loved it intensely from the moment he entered it. He is particularly well known in the textile field. He has scores of friends, all of whom join us in wishing him a very healthy and rich leisure life which he so justly deserves and has fully earned.

Fredell succeeds

"Before leaving, Charlie has seen to it, as you can well imagine a man of his capacity would, that a suitable successor was introduced to this organization. As of September the 1st his successor will be Mr. John C. Fredell, Jr.

"Mr. Fredell also comes to us with a background in this type of work. He is not new because he has been working with Charlie for over a year. He will carry on where Charlie has left off and whenever he gets in a spot you can be sure that Charlie will be the first one who will want to help him solve a difficult problem and even though Charlie has retired his interest in his life work will never diminish.

"Charlie's address will always be at this office for some time but his home address is 8212 Fifth Avenue, Brooklyn, N. Y."

Bramer Wins Graduate School Scholarship

Pittsburgh: John C. Bramer, assistant general credit manager of Harbison-Walker Refractories Company, was named winner of the Credit Association of Western Pennsylvania 1951 scholarship award. Made primarily on the basis of business accomplishment and responsibility, this annual award takes the form of a scholarship to the Graduate School of Credit and Financial Management of Dartmouth College at Hanover, N. H.

Record Picnic at Des Moines

Des Moines: The annual picnic of the Central Iowa Unit, NACM, was the largest ever. 337 attended, including 99 children.

COMING EVENTS

Southwest Conference
Dallas, September 20-22

Northwest Conference
Tacoma, September 27-28

Petroleum Credit Conference
Dallas, October 14-16

Wisconsin Conference
Appleton, October 16

Tri-State Conference
Lincoln, Neb., October 17-18

Tri-State Conference
Wichita, October 18-20

Tri-State Conference
Syracuse, N. Y., October 18-20

Ohio Valley Conference
Cleveland, October 18-20

Southeast Conference
Atlanta, October 18-20

Credit Women's Conference
Cleveland, October 20-21

Illinois Conference
Chicago, October 24

New England Conference
Providence, R. I., November 28

National Credit Congress
Houston, May 11-15, 1952

North Central Conference
Fargo, N. D., May 21-22, 1952

Robert P. Dean, Petroleum Credit Leader, Passed On

Robert P. Dean, Credit Coordinator Esso Standard Oil Co. of Pennsylvania, died last month. He was buried August 6.



Robert P. Dean

Mr. Dean joined the company in 1930 as credit manager in the Pittsburgh branch of Esso Standard Oil Company of Pennsylvania. He was named credit manager for that company at Philadelphia in 1932 and transferred to New York as assistant credit coordinator in 1946. Mr. Dean was named credit coordinator in the Marketing Department of Esso Standard Oil Company in 1948.

A native of Columbus, Ohio, he moved to Pittsburgh at an early age, attending local grade and high schools, Carnegie Institute of Technology and the University of Pittsburgh. Before joining Esso, he was assistant treasurer of the Waverly Oil Works Company of Pittsburgh.

Mr. Dean made his home at 419 Strathmore Road, Havertown, Pennsylvania, with his wife, the former Mabel Myers of Pittsburgh, and three daughters, Marjory, Patricia and Diana.

He was chairman of the Board of Governors of the National Credit Interchange System of the National Association of Credit Men, former officer and director of the Credit Men's Association of Eastern Pennsylvania and past president of the American Petroleum Credit Association.

Hartman Elected New Milwaukee President

Milwaukee: Harold Hartman, L. J. Mueller Furnace Co., has been elected president of the Milwaukee Association of Credit Men. The election took place at a dinner meeting held at the Elks Club. He succeeds Charles Jones, Marine National Exchange Bank.

E. M. Kroening, Allen Bradley Co., is vice-president, and A. P. Bergner, Westinghouse Electric Supply Co., is treasurer. Herman S. Garness continues as secretary-manager.

Dallas To Be Scene of 1951 S. W. Conference

Dallas: The Dallas Wholesale Credit Managers Association will be hosts for the Southwest Credit Conference which is planned for Thursday, Friday, and Saturday, September 20, 21, 22 at the Adolphus Hotel.

A full program of speakers and entertainment has been planned and visitors are expected from Houston, El Paso, Tulsa, Shreveport, Waco, Austin, Lubbock, Oklahoma City, San Antonio, Little Rock, Amarillo, and Fort Worth.

Among the speakers who will appear are National President Lorne D. Duncan, National Distillers Producers Corporation, New York, Executive Manager Henry H. Heimann, Ben Wooten, President of the First National Bank in Dallas, Louis Throgmorton, President of the Republic National Life Insurance Company, National Director W. L. Holmes, Schlumberger Well Surveying Corp., Houston, National Vice president, Victor C. Eggerding, Gaylord container Corp., St. Louis.

Senior Round Table Planned by Newark Credit Executives

Newark: The New Jersey Association of Credit Executives is planning a "Senior Credit Executives' Round Table" which will start in September and continue each three weeks through May of 1952.

Qualifications for membership in the round table are at least ten years of credit experience.

Subjects to be discussed include "Human Relations in Credit Work," "Legal Aspects of Credit," "Financial Statement Analysis," and "Problems of Credit Management."

The Round Table is planned so that a senior executive who attends and contributes to all the sessions should be able to pass the fellow examination of the National Institute of Credit.

Tri-State Conference Planned for Syracuse

Syracuse: Credit executives from New Jersey, New York, Eastern Pennsylvania, and Maryland will meet on the evening of October 13 for the annual Tri-State Conference of District 2. The conference will run through October 20.

The opening event will be a get-together party on Thursday evening, October 18. Business sessions will be conducted Friday morning and afternoon. On Friday noon there will be the President's luncheon and on Friday evening the annual banquet.

Kansas City Credit Men Ready to Help All Flood Victims

Kansas City: The Kansas City Wholesale Credit Association has announced that the Association stands ready to help all members and their customers in rehabilitating themselves after the disastrous floods which recently hit the Kansas City area.

As a concrete step in this direction the Kansas City O. D. Cunningham is appointing a committee to consist of at least 45 members, three from each line of industry. It will be the duty of this committee to meet with the secretary when considering the rehabilitation of a distressed firm.

Raymond Hough Pleads For Better Business Bureau in Editorial

Denver: Raymond Hough, retired Executive Manager of the New York Credit Men's Association, now the New York Credit & Financial Management Association, had the distinction of being the writer of a guest editorial in the Denver Post on July 17.

Mr. Hough, who is now president of Petroleum Publishers, Inc., in Denver, put forth a plea for the establishment of a better business bureau in Denver, which is one of the few sizable cities in the country which does not have such a bureau.

Mr. Hough in his editorial drew on his long experience in New York to point out how business men and a better business bureau can cooperate for the good of business and for the protection of the consumer.

Midwest Managers Hold Quarterly Business Meeting

Minneapolis: The managers of Associations in the mid-west met July 21 in Minneapolis for their quarterly meeting. Managers from eight states were present—North and South Dakota, Minnesota, Wisconsin, Iowa, Kansas, Missouri and Nebraska.

National Vice-President Victor C. Eggerding, Gaylord Container Corp., St. Louis, was present, as was National Director Harold Berg, Dakota Electric Supply Co., Fargo, N. D. Past Director Harold Cummings of St. Paul was also present.

Annual Picnic at St. Louis

St. Louis: The St. Louis Association held its twelfth annual family picnic at Funk's Grove, Grover, Missouri, Saturday, July 28.

Luncheon was served by the credit women's group.

Conference Plans Taking Shape for Tri-State Meet

Wichita: Plans are being completed for the Tri-State Conference to be held at the Lassen Hotel. Members from Missouri, Kansas and Oklahoma will be present.

The program generally will consist of registration on Wednesday evening, October 17; a get-together the same evening; general meetings all day Thursday, October 18, followed by an banquet and Gay Nineties revue, and industry group meetings Friday, October 19.

Eight group classifications are planned for October 19—oil field service and supply; food and meat packing; drugs, chemicals, brewers and beverages; automotive, petroleum and allied lines; furniture, electrical and hardware; manufacturers, banks and utilities; building material, paints, lumber, etc., and wearing apparel.

Central Mo. Chapter Holds Annual Meeting

Sikeston, Mo.: This was the scene of the annual meeting of the Cape Girardeau Association (chapter of St. Louis).

National Vice-President Victor C. Eggerding, Gaylord Container Corp., presented the Class F Membership plaque.

Officers for 1951-52 are: A. W. French, Simpson Oil Corp., president; Paul J. Spitzmiller, Missourian Printing & Stationery Co., 1st vice-president; R. H. Mackley, Grant Oil Co., 2nd vice-president; J. P. Tlapak, Auto Tire & Parts Co., secretary, and E. F. Brase, B & H Auto Supply Co., Councillor.

Chicago Credit Men Make Plans For Conference

Plans are being rapidly completed by the Chicago Association of Credit Men for the annual Illinois Regional Credit Conference and the annual Fall Dinner of the Association Wednesday, October 24.

The credit Conference will occupy both morning and afternoon sessions with a luncheon at noon, the main speaker being Edward McFaul who made such a hit at the recent NACM Credit Congress in Boston.

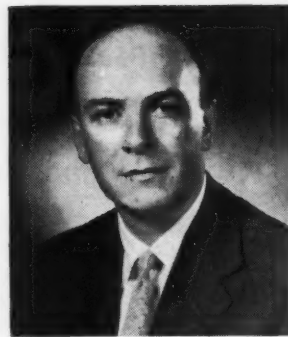
At the evening dinner the speaker will be United States Senator William E. Jenner of Indiana. As usual it is expected that there will be a large attendance at all the meetings with representatives from all sections in Illinois and adjoining states.



Florence Gibbons



Vernon R. Evans



F. M. Messick



J. S. Nichol

WE SALUTE — — —

Mrs. Florence Gibbons, President
Lincoln Association of Credit Men, Lincoln, Nebraska

Credit manager, Gooch Milling and Elevator Company. Started with this company in 1918 as invoice clerk, then to assistant credit manager, and to present position. Past director of Chamber of Commerce. Past president Lincoln Chapter Quota International, and past governor 7th District Quota International. Active in Lincoln Beautification Committee, Child Guidance Center, Lincoln Urban League, Wholesale Credit Association, and American Business Women's Association.

Mr. Vernon R. Evans, President
Utica Association of Credit Men, Utica, New York

President of Vernon R. Evans Company, which business he started 15 years ago, after being with Globe-Wernicke Company for a time. Governor of Region 2, National Stationers & Office Equipment Association, after serving two years as vice-governor. Trustee of New York State Institute of Applied Arts and Sciences. Just completed two terms as president of the Mohawk Valley Stationers Club, and was chairman for two years of the Retail Merchants Council of the Utica Chamber of Commerce.

D. B. (Dell) Signon, President
Roanoke Association of Credit Men, Roanoke, Va.

Credit manager, Clover Creamery Company, Inc. Originally employed as a salesman by present company in 1919, and in 1941 promoted to position he now holds. Member of Roanoke Rotary Club and several fraternal organizations. Secretary of Rajah Temple #195 D.O.K.K., vice-president of Rajah Temple Beneficiary Fund Association, and treasurer of Roanoke Lodge #113, Knights of Pythias.

Mr. Francis M. Messick, President
St. Joseph Valley Chapter, N.A.C.M., South Bend, Indiana

Treasurer of American Trust Company, which position he has held since 1946. After graduating from Notre Dame in 1930, with Bachelor of Commercial Science degree, Mr. Messick was associated for 13 years with Associates Investment Company. In 1943 he entered the navy in the financial division of the navy supply corps, and returned in 1946 as a lieutenant, senior grade. Past president Council Oaks Chapter Reserve Officers Association, and past president Notre Dame Club of St. Joseph Valley.

Mr. William C. Hall, President
Boston Credit Men's Association, Boston 8, Mass.

Manager of credits and collections, Sylvania Electric Products, Inc. Formerly credit manager of Carters Ink Company. Graduate of Boston University, College of Business Administration, Class of 1929. Member of New England Export Club and honorary member of the Salem, Mass., Credit Bureau. Active for a good many years in credit circles in the Boston area, has acted as chairman of several committees.

Mr. Walter G. Cottle, President
Nashville Association of Credit Men, Nashville, Tenn.

Secretary and office manager, Jamison Bedding Company, since 1942. Member of board of directors, with responsibility of the office in addition to financial, credits and accounting. Graduate of Bowling Green Business University, and formerly secretary and treasurer of Nashville Cotton Oil Mill Corporation. Past president local chapter of National Office Management Association. Member of board of directors Nashville Freight Bureau, and member Nashville Chamber of Commerce, as well as number of church committees.

Mr. Kenneth R. Miller, President
St. Paul Association of Credit Men, St. Paul, Minn.

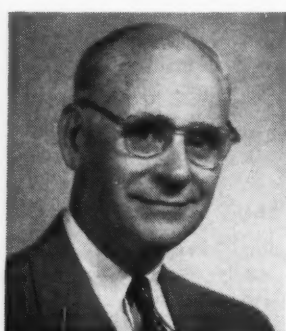
District credit manager, Cudahy Packing Co., and has been with his present company for fifteen years. Has been active in Association work for many years as program committee chairman and former chairman of the educational committee. Regarded as a keen, "sales-minded" credit manager, and always helpful in Association membership sales and promotion work.

Mr. John S. Nichol, President
Credit Association of Western Penna., Pittsburgh, Pa.

Vice-president and treasurer of Harris Pump and Supply Company. Joined company in 1937 as assistant secretary and assistant treasurer, promoted to secretary-treasurer in 1940, and present position March, 1951. Previously acted as credit manager of Malone Plumbing Supply Company. Member board of directors of South Pittsburgh Savings and Loan Assn., and of Kingsley Association; advisory board of Peoples First National Bank and Trust Company.



William C. Hall



Walter G. Cottle



Kenneth R. Miller



Dale Sigmon

News of the CREDIT WOMEN

San Francisco: The San Francisco Credit Women's Group will hold their regular monthly dinner meeting September 19, 1951, at the Hotel Bellevue. Mr. Otis Walker, Executive Manager, Secretary of the Credit Managers Association of Northern and Central California, will speak on "Know Your Association."

Pittsburgh: Miss Anne Blazer, office and credit manager, Land O' Lakes Creameries, has been elected to the Board of Directors of the Credit Association of Western Pennsylvania.

The Pittsburgh Credit Women's Club, of which she was installed as president May 25, has been striving for years to have a woman elected to the Credit Association's Board.

The group started the ball rolling for the 1951-52 season with a Board Meeting on August 7.

Cleveland: The Cleveland Credit Women's Club did not hold any regular business meetings during July and August but they had a busy summer anyway; on July 14th forty members attended the annual outing which was held again at the farm of one of the charter members. They met again at the home of Mr. and Mrs. Kenneth Thomson on August 11th. The Thomsons have entertained the club in their home each year since coming to Cleveland.

All the committees have continued working hard shaping up details and program for the coming year, and especially the Mid-West Wholesale Credit Women's Conference, which will be held in Cleveland October 20 and 21.

Oakland: The regular monthly meeting of the Credit Women's Group of Oakland was held at the Robin Hood Inn on Monday, August 20th. Following dinner, Evelyn Campbell gave a short history of her firm, Colyear Motors Company. During the evening, the notes of the Credit Women's Forum held at the Annual Convention were read and discussed by the members.

The main speaker was Helen Sutherlin of Currier Company, who spoke on an article drawn from CREDIT AND FINANCIAL MANAGEMENT. Her talk was followed by a general discussion.

Wichita: The Wholesale Credit Women's Group of Wichita held a meeting on Wednesday, August 8, at the Grit Printing Co. The program included a tour through the Grit Company after dinner; later the group moved to the Wichita Association of Credit Men's offices for an explanation of Interchange operations.

Golf at Minneapolis

Minneapolis: The Twin Cities credit managers held their annual golf stag August 13 at Midland Hills.

Payment Bonds Do Not Guarantee

(Continued from page 10)

the Miller Act because that bond is given for the protection of the persons furnishing material or labor. However, if there is an outright sale there is no recovery against the bond even though the party defaults.

In the case of *Continental Casualty Company vs. Boyde*, decided in 1944 in 140 Federal (2) 115, the question arose on two points. The first involved the renewal of a lease and the second point was concerned with the addition of accessories and the repair parts. It appears that the supplier furnished certain dirt moving equipment. After the original lease was entered into, there was an extension of the lease, and in bringing an action against the bonding company for the value of the rent due, the bonding company attempted to defend the action on the grounds that they were not liable for the amount of the lease rental from the inception of the original lease up until the date of the renewal. They tried to argue that the renewal lease terminated the old lease and therefore since there was a new contract, the bonding company was not liable under the old contract. The court held, however, that the renewal lease did not constitute a novation and did not discharge the rent which had accrued under the original lease.

There was also the question of accessories and repair parts. It was held that insofar as repair parts were concerned, if the parts are wholly consumed in the performance of the work and if the current repairs compensated only for the ordinary wear and tear, those parts are "labor and material" within the coverage of the federal statutes and recovery can be had under the payment bond. However, the bonding company was not liable for accessories nor additions to the equipment which added to the value of it. In this particular case the supplier had sued the bonding company for \$2,562.40 for an open account, and the court finally allowed \$1,911.23, making the supplier designate those items which were for repair and those items which were for addi-

tions to or betterment of the equipment.

Another interesting case is that of the *Susi Construction Company vs. Barrett Contracting Company*, 146 Federal 2606. In this case the general contractor terminated the sub-contract but continued to use equipment which sub-contractor had been renting. When the company renting the equipment attempted to collect, the general contractor defaulted and suit was brought against the bonding company. The bonding company defended the action on the grounds that it was liable only for the rental which was due from the sub-contractor and was not liable for the rental value of the equipment after the sub-contract was terminated. The bonding company claimed that the general contractor had used the equipment without authority, and, because of that, the bonding company claimed that the bond did not cover a tort action or an action for a breach of contract. The court held, however, that the bonding company was liable for the reasonable value of the equipment, and that the general contractor could not use the equipment and then have the bonding company claim a defense by the way of a tort. The equipment company was able to secure a judgment increasing the rent from \$7,227.50, where it had been \$5,157.75.

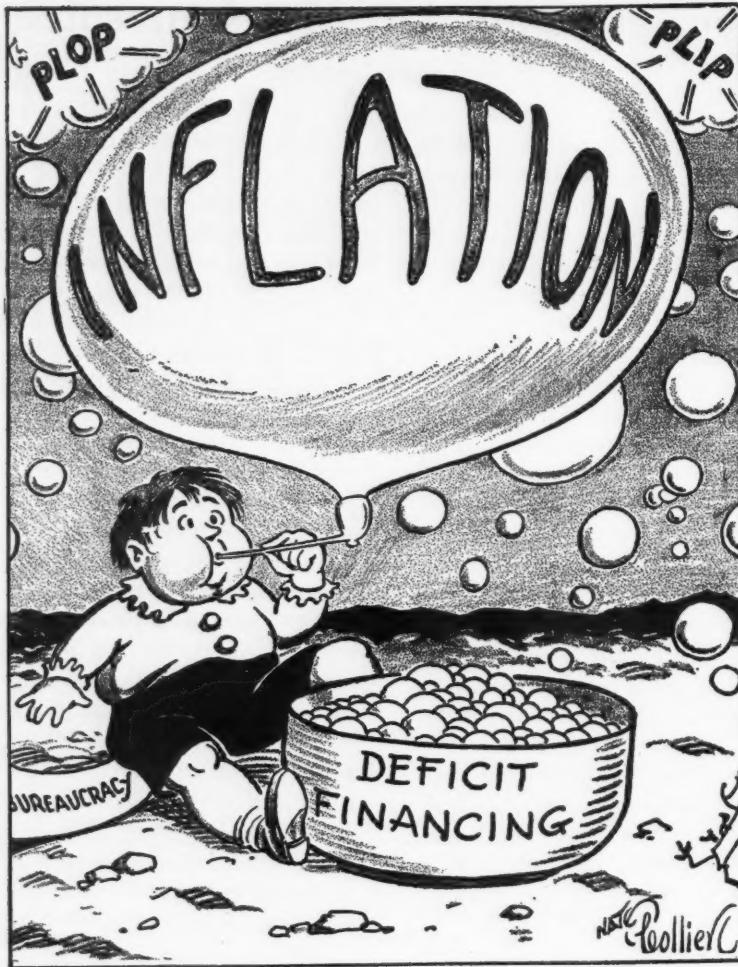
In a case decided in 1947 U. S. for the use of *Roig vs. Castro*, 71 Federal Supplement 36, it was held that the bonding company was liable for the rental of the construction equipment and for repairs and parts consumed in the work up to the time of the removal of the equipment from the job, but it was not liable for repairs to the machinery made after the contract had been completed.

Cooperation Pays Off

(Continued from page 13)

Within 48 hours the remaining creditors followed the committee's lead. The committee was invested with complete authority to take any measures to protect and preserve the interests of all creditors.

FOREVER BLOWING BUBBLES



Both groups huddled through a series of conferences. After an extensive examination of the debtors books and records, it was finally agreed:

1. That an act of bankruptcy had been committed.
2. That the inventory withdrawn "in lieu of salary" was preferential treatment to the detriment of all creditors and should not be allowed.
3. That in the light of a recent Supreme Court decision, the debtor could not share even as a general creditor for his past salary claims.
4. That the withdrawn inventory was to be returned to the debtor, who would then transfer *all* the inventory to the creditors' committee for disposition and sale.

The debtor had no choice but to accept, and a creditors' composition agreement was prepared. The creditors' attorney was appointed as the Trustee to collect and dispose of the

assets. The assets were sold at public auction. Each creditor received a net dividend (after all deductions, including legal fees) which represented a 63.56% recovery of their claim compared to the 20% which was originally offered. All this was accomplished in 40 days.

The creditors were satisfied. Their novel experiment in cooperation had paid off. The grapevine informs me that another group of creditors are about to embark upon a similar experience. Sure glad I am not involved again.

They're All Alike

(Continued from page 12)

you received a business appreciation letter? You, undoubtedly, would think here is a letter which has been sent to me for no apparent reason other than to let me know that this firm appreciates doing business with me. And, incidentally, such letters are appreciated as much by your

sales department as by your customers.

Business appreciation letters should be sent to all active accounts and as many small accounts as possible. These letters should be simple, easy to read, and with a tone of genuine and sincere appreciation, individually typed and with a pen and ink signature.

Many business firms, usually in January or February, send business appreciation letters. This procedure requires an enormous amount of work at one time. I follow the practice of setting up a procedure for a continuous flow of business appreciation letters. I determine a number of letters to be sent each day and maintain that schedule. You will be surprised how the number of letters grows.

Civic affairs

It is part of the task of improving customer relations and of aiding the sales department to have your name prominent in civic affairs. You must assume civic and social responsibilities. You should participate in as many social and civic functions as possible for the purpose of building good will. Carefully consider requests from customers to the firm for donations to their own charities. Take prominent participation in finance campaigns for charitable organizations such as the Community Fund, Red Cross, Cancer Society, Heart Association, etc. If your city has organized a civil defense corps, you should have a part in it.

Your trade association participation is of vital importance in furthering your good will program. Make it a point for the credit department to share in retail drug association functions, likewise, in any association composed of manufacturers' agents.

What you can do

If the credit manager is conducting his department under the general policies outlined above, he is already working so closely with the salesmen that the individual problems of each department are solved by a natural spirit of cooperation. The following are some specific ideas as to what the credit manager can do, in his working with the

sales department, to secure the maximum credit and collection cooperation of the sales manager and the salesmen:

1. A paid up customer is a good customer. It is well recognized that the salesman's primary objective is to strive constantly for increased sales, but in order to attain this end he must be selling accounts that pay their bills regularly. The credit manager can educate the salesman to this fact. It is to the advantage of the company and to the salesman himself to have the least possible number of accounts as delinquents. In many cases the salesman can contribute substantially in reducing the number of accounts falling into the delinquent category. It is also important that the salesman and the sales-minded credit manager work together with tact, diplomacy and strategy in order to keep his accounts on a current basis.
2. To effectuate the previous suggestion, supply monthly individual account reports to each salesman. It is especially important at least to send a duplicate statement to the salesman of his accounts that are delinquent.

Collect through salesmen?

3. Try sending notes asking for payment to the salesman in charge of the account rather than to the customer—in many cases the salesman would prefer this, and would *prefer* to handle it himself.
4. Analyze account conditions by individual salesmen's territories where practicable and furnish this information to the sales department.
5. A salesman is looking for service to render his customer. Help in collecting cash is one such valuable service to many businesses. At least in Chicago we have some individuals owning stores but not trusting banks. Getting business in some instances *depends* upon collecting cash for the monthly statement.
6. Provide an easy bookkeeping system and easy method for salesmen to handle money.

Information from salesmen

7. A salesman can furnish information on new accounts. As a general rule, he is reluctant to secure credit information. His primary objective is to sell goods, and that fact is well recognized. Furthermore, his time is valuable. Salesmen should not be asked to secure credit information on old accounts. However, for the benefit of all, and especially himself, when a salesman secures an order from a new account he should by all means assist simultaneously with credit information. Two simple questions at that time would permit his order to be delivered promptly and his credit established smoothly. His new customer relationship need not be jeopardized by personal questions placed perhaps at an inconvenient time by a strange telephone voice. The two questions which should always be asked of a new applicant for open account are: (1) the name of the bank that he uses, and (2) the names of other suppliers that are extending open account privileges.

Know company policy

8. Be sure it is company policy that the salesman and customer together understand all payment conditions pertaining to a new account—make provision ahead rather than risk offending by correcting misunderstanding.
9. Apprise the salesman immediately of any change in credit policy towards the customer.
10. Help the salesman to realize

his firm's responsibility of aiding the retailer in management—being alert to impending trouble and advising an *understanding* credit manager, so that expert financial advice can be available before the situation becomes critical with the resulting mortality of a customer.

11. Last on the list, the credit manager should participate in all sales meetings to implement the above ideas, and to show salesmen how such policies help them as individuals.

As a closing thought I think the need for complete cooperation between the salesmen and the credit manager can best be illustrated by the story of the minister who visited the home of a member of his church who had not been attending Sunday services. The member explained that he felt that he could worship in the manner of his choice and that it wasn't necessary to attend church. The two men were seated before a glowing red fireplace. The minister took the tongs, picked up a hot coal and laid it on the hearth. The coal promptly cooled off and remained a cold ash. The minister turned to the man with the comment that had this coal remained in the fireplace, its output would have been multiplied many times. This necessity of cooperation can well be considered and effectively applied by anyone in his respective position and department.

In the final analysis, good credit-sales relations is the application of common sense. Everything you do, everything you say, every decision you make creates an impression, favorable or unfavorable, and will be a deciding factor in your relationship with not only your customers but with your sales department.

A Creditors' Committee Takes Charge

(Continued from page 19)

now paying cash for your materials, you should give them as much of your business as possible.

Stockholders

In the case of a company that has a substantial number of public stockholders, it also has an obligation to them. In most cases, particularly the smaller stockholders, they have very

little intimate knowledge of the actual affairs or conditions of the company, unless of course, the company involved is one of the larger firms.

I was amazed, in one case, to find that when a letter was sent to stockholders informing them of the condition of affairs, outside of a few of the larger stockholders this knowledge came as a complete shock. In most instances, I suppose,

the stockholder bought his stock through some broker years ago, and has paid very little attention to it since that time.

It is essential that the stockholders appreciate the condition of the company and that they recognize their position in the matter.

Financial policy

The financial policy to be followed by a company working with a creditors' committee will depend a great deal on the condition of such a company. We feel that it is essential to carry on your complete business on as near a cash basis as is possible. In the first place, your liabilities are more than can be met in accordance with their terms or there would not be a creditors' committee. Therefore, your liabilities should not be increased, if it can possibly be avoided. There may be instances where it would pay a company and its creditors to consider some short-term financing to carry them through their difficulties.

It is surprising what can be accomplished on a small amount of working cash, if you will really watch your inventories, receivables and your overheads. In the final analysis, it is necessary to extend the time for payment of your liabilities, wherever you can possibly do so, because the real purpose of the formation of the creditors' committee is to "buy" time, so that the problems confronting the company can be corrected. You will find that in most instances, not only your creditors, but any other groups or agencies involved will be very willing to cooperate with you in this respect, if they are convinced that you are sincere in your efforts and that the business can be conducted on a profitable basis, so that ultimately the company will be able to discharge its obligations and get on a firm financial foundation.

Frozen inventories

Probably in any situation involving a creditors' committee, one of the contributing causes will be frozen inventories. This may be brought about by the inability to move certain products, but it will also be caused by an overstocking of materials. A great deal of ingenuity must be used by the com-

pany to use as much of the inventory that they may have on hand as possible, so that the current purchasing will be kept at a minimum. It is amazing to find how much can be accomplished along this line, if your employees will put their minds to it. This is particularly true where the product consists of special machinery, where special designing and engineering enter into the picture. Standardization of design must be effected in a high degree.

To the greatest extent possible, purchases must be limited to orders received. There can be very little buying for stock. This, of course, does not apply to small items, such as nuts, bolts, and screws, and other items that have to be stocked. While this means additional work, nevertheless, I believe it is essential. When your condition has improved, some leeway can be made in connection with this point, and certainly as of today, with the terrific problem of getting so many materials, you must purchase some items and stock them. These scarce materials must be purchased when they are obtainable, but again, extreme care must be used in not building up your inventory.

Cutting down overhead

It goes without saying that every effort must be made to cut out all non-essential activities in which the company has been involved and to reduce both your factory and administrative overhead, wherever it can be done without sacrificing your efficiency or ability to produce. Over a period of years, every company adds certain frills or luxuries in the conduct of its business, which, while they are no doubt helpful in the operations, are not absolutely essential. For some period of time, all such non-essentials must be eliminated. It is also necessary to convert into cash everything that the company owns that is not absolutely needed in the operation of its business. It is amazing how much equipment, materials, supplies, and other extraneous materials are accumulated over a period of years. While a great many companies periodically make it a point to clear up all of these phases, I think that you will be surprised if a careful survey is made of your own company along this line.

The Price Of Success

(Continued from page 21)

with us, that company continues to pass its credits, make shipments on its usual terms, handle its own collection. Now that is where we come into the picture. The company can, immediately upon making shipments, send copies of invoices to us with evidence of delivery or shipment. The same day this reaches us our check for the percent we have agreed to advance on invoices—usually 80% or 90%—goes forward to the company. Quite a contrast to waiting thirty, sixty or even ninety days for full payment!

Let me emphasize that our plan keeps the user's financing method just as confidential as if he is borrowing through usual local sources. At no time are his customers aware of his method of securing quick funds.

Food for thought

We believe there is food for thought for credit managers in this type of financing under today's conditions. The credit manager has a company which certainly does not justify a larger line of credit because it has been slow pay. Or he has a prospect on which the sales department is extremely anxious to "get its foot in the door" but where the company's current asset position is extremely weak. Quite frequently, a favorable credit decision might be given by suggesting to the company that it turn its accounts receivable into cash quickly, thus enabling it to discount invoices.

We know of cases where credit managers have hesitated to do this direct but have accomplished the same result by suggesting to our office in the area where the company is located that he call on the treasurer and explain our plan.

There is evidence that working capital positions have tightened in the past year because money we are advancing for this purpose has nearly doubled. And there is no evidence that the inflationary and tax situations which have contributed largely to this condition will adjust themselves in the foreseeable future.

Make your dream a reality —and in a shorter time!

Of course we all want to get to the top and get there fast. The question is: what can we do about it? Well, here's the best thing you can do and you can start right in this month—join your local chapter of the NATIONAL INSTITUTE OF CREDIT.

A successful credit executive needs to know things which are not covered even in the most comprehensive business courses. You'll learn about them by experience, certainly, but why wait that long? Experience is a wonderful thing, and we can't do without it, but experience is full of dead ends.

A straight line is still the shortest distance between two points. You can make your experience make more sense by cutting out the dead ends and heading yourself in the direction you want to go. How? Join the nearest chapter of the NATIONAL INSTITUTE OF CREDIT and in a very short time KNOW what you would need years to pick up through experience alone.

Or if there is no chapter near you, or you want information about them write to the address below. Either way you'll be heading in the right direction—a beeline toward your objective—success!

National Institute of Credit
229 Fourth Avenue **New York 3, N.Y.**

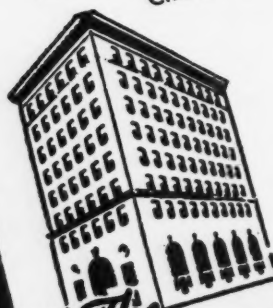
FIFTY YEARS Is A Long Time To Be Satisfied!

On April 9, 1901 we opened our account at the
CHASE NATIONAL BANK OF NEW YORK.

For every day of those fifty years we have been both happy and
proud to rely on Chase National as our New York
correspondent bank.

Many, indeed, are the outstanding services which
that great bank has rendered to us for our customers.

One of the special advantages for you in doing business
with "The Bank on the Corner" is the world-wide facilities of
Chase National available to us for you.



YOU'LL BE SATISFIED
WITH E. S. T., TOO

MEMBER FEDERAL RESERVE SYSTEM

The
ELYRIA

**SAVINGS &
TRUST CO.**

MEMBER FEDERAL DEPOSIT INSURANCE CORPORATION

Naturally we were gratified when our good friends in
Elyria, Ohio, published this advertisement in a local
newspaper. Copies have been circulated throughout our bank,
as such a compliment rightfully belongs to the many
hundreds of Chase men and women who furnished the
background of *constant service* that inspired it.

**THE CHASE NATIONAL BANK
OF THE CITY OF NEW YORK**

Member Federal Deposit Insurance Corporation



SERVICE TO CORRESPONDENTS

*Credit information
Around-the-clock mail
pick-up
Quick collection of items
Participation in
local loans with
correspondent banks
Dealers in State and
Municipal Bonds
Execution of security
orders
Analyses of investment
portfolios
Safekeeping of securities
Full foreign services
Many personal services*